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STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
AUGUSTA, MAINE 04333

Bureau of Elder and Adult Services

## Request for Proposals #301331

Homemaker Services

August 2001

Bureau of Elder and Adult Services – Homemaker Services  
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**DEFINITIONS**

The following terms and abbreviations are defined as used herein.

**Activities of Daily Living. (ADLs)**

ADLs shall only include the following as defined in Bureau of Elder and Adult Services (BEAS) Policy, Section 69.02 (B) (2): personal hygiene and dressing.

**ADA**

Americans with Disabilities Act.

**Agency**

Agency may represent a State department, agency, office, board, commission or quasi-independent agency, board or commission, authority or institution.

**Authorized Agent**

Authorized Agent means an organization authorized by the Department to perform functions under a valid contract or other approved, signed agreement.

**Authorized Plan of Care**

Authorized Plan of Care means a plan of care which is authorized by the Authorized Agent, or the Department, which shall specify all services to be delivered to a recipient of this program, including the number of hours for all covered services. The plan of care shall be based upon the recipient's assessment outcome scores, and the timeframes contained therein, recorded in the Department's medical eligibility determination (MED) form. The Authorized Agent has the authority to determine and authorize the plan of care. All authorized covered services provided under this Section must be listed in the care plan summary on the MED form.

**BEAS**

Bureau of Elder and Adult Services, in the Department of Human Services, State of Maine

**Bid/Proposal**

The documents submitted by bidders to the Division of Purchases in response to this RFP.

**Bidder**

Any entity, organization or individual qualified to submit a proposal in response to this RFP.

**Care Plan Summary**

Care plan summary is the section of the MED form that documents the Authorized Plan of Care and services provided by other public or

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private program funding sources or support, service category, reason codes, duration, unit code, number of units per month, rate per unit, and total cost per month.

Cognitive capacity

The consumer must have the cognitive capacity, as measured on the MED form, to be able to "self direct" the attendant in the voucher option outline in Section 69.02 (B) (3). This capability will be determined by the Authorized Agent as part of the eligibility determination using the Medical Eligibility Determination (MED) findings. Minimum MED form scores are (a) decision making skills: a score of 0 or 1; (b) making self understood: a score of 0,1, or 2; (c) ability to understand others: a score of 0,1, or 2; (d) managing finances: a score of 0,1,or 2; (e) managing finances self performance: a score of 0,1,2, or 3; and (f) managing finances support, a score of 0,1,2, or 3. An applicant not meeting the specific scores will be presumed incapable of hiring, firing, training, and supervising the voucher plan of care.

Contract

The resulting Agreement between the Department of Human Services and the successful bidder.

Contractor

The firm selected to, and awarded a contract to provide the services contained in this RFP and as contracted. For the purpose of this RFP, Contractor and Vendor are synonymous.

Covered Services

Covered services are those services eligible for reimbursement pursuant to Section 69 of the Bureau of Elder and Adult Services Policy Manual.

Department

(State) Department of Human Services.

Dependent Allowances

Dependents and dependent allowances are defined and determined in agreement with the method used in the Medicaid program. The allowances are changed periodically and cited in the Maine Medical Eligibility Manual, Chart II, AFDC Related Income Limits, as per most recent amendment dated November 2000. See current allowances on the next page. Dependents are defined as individuals who may be claimed for tax purposes under the Internal Revenue Code and may include a minor or dependent child, dependent parents, or dependent siblings of the consumer or consumer's spouse. A spouse may not be included.

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<b>Monthly Allowance for Food, Clothing, and Laundry</b>					
<b>Number in Household</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 &amp; up</b>
<b>Amount</b>	\$198	\$310	\$414	\$518	\$623

<b>Maximum Allowable Discretionary Expenses</b>					
<b>Number in Household</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5 &amp; up</b>
<b>Amount</b>	\$50	\$72	\$94	\$121	\$143

DHS (State) Department of Human Services.

Disability-related expenses

Disability-related expenses are out-of-pocket costs incurred by the consumers for their disability, which are not reimbursed by any thirdparty sources. They include:

- (1) Home access modifications: ramps, tub/shower modifications and accessories, power door openers, show seat/chair, grab bars, door widening, environmental controls;
- (2) Communication devices: adaptations to computers, speaker telephone, TTY, Personal Emergency Response systems;
- (3) Wheelchair (manual or power) accessories: lab tray, seats and back supports;
- (4) Vehicle adaptations: adapted carrier and loading devices, one communication device for emergencies (limited to purchase and installation), adapted equipment for;
- (5) Hearing Aids, glasses, adapted visual aids;
- (6) Assistive animals (purchase only);
- (7) Physician ordered medical services and supplies;
- (8) Physician ordered prescription and over the counter drugs; and
- (9) Medical insurance premiums, co-pays and deductibles.

Household members

Household members means the consumer and spouse.

Household members' income

Household members' income includes:

- (1) Wages from work, including payroll deductions, excluding state and Federal taxes and employer mandated or court ordered withholdings;
- (2) Benefits from Social Security, Supplemental Security Insurance, pensions, insurance, independent retirement plans, annuities, and Aid and Attendance;
- (3) Adjusted gross income from property and/or business, based on the consumer's most recent Federal income tax; and
- (4) Interest and dividends.

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(5) Not included are benefits from: the Home Energy Assistance Program, Food Stamps, General Assistance, Property Tax and Rent Refund, emergency assistance programs, or their successors.

Instrumental activities of daily living (IADLs)

Instrumental Activities of Daily Living (IADL); For purposes of the eligibility criteria and covered services under this program, IADLS are limited to the following: main meal preparation: preparation or receipt of the main meal; routine housework; grocery shopping and storage of purchased groceries; and laundry either within the residence or at an outside laundry facility.

Limited Assistance

Limited assistance means the individual was highly involved in the activity over the past seven days, or 24 to 48 hours if in a hospital setting, but received and required guided maneuvering of limbs or other non-weight bearing physical assistance three or more times or with weight-bearing support one or two times.

Liquid Asset

Liquid asset is something of value available to the consumer that can be converted to cash in three months or less and includes:

- (1) Bank accounts;
- (2) Certificates of deposit;
- (3) Money market and mutual funds;
- (4) Life insurance policies;
- (5) Stocks and bonds; and
- (6) Lump sum payments and inheritances.
- (7) Funds from a home equity conversion mortgage that are in the consumer's possession whether they are cash or have been converted to another form. Funds which are available to the consumer but carry a penalty for early withdrawal will be counted minus the penalty. Exempt from this category are mortuary trusts and lump sum payments received from insurance settlements or annuities or other such assets named specifically to provide income as a replacement for earned income. The income from these payments will be counted as income.

Medical Eligibility Determination (MED) Form

The MED form (see Appendix E) shall mean the form approved by the Department for medical eligibility determinations and service authorization for the plan of care based upon the assessment outcome scores. The definitions, scoring mechanisms and time-frames relating to this form as defined in Section 69 of the BEAS Policy Manual (see Appendix B) and provide the basis for services and the care plan authorized by the Authorized Agent. The care plan summary contained in the MED form documents the authorized careplan to be

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implemented by the homemaker agency. The care plan summary also identifies other services the recipient is receiving, in addition to the authorized services provided under this Section.

**MFASIS** Maine Financial And Administrative Statewide Information Systems – These systems include the statewide Accounting, Human Resources/Payroll, Human Resource and Financial Information Warehouses, and current Budget Management systems.

**One-person Physical Assist**

One-person physical assist requires one person over last seven (7) days or 24-48 hours if in a hospital setting, to provide either weight-bearing or non-weight bearing assistance for an individual who cannot perform the activity independently. This does not include cueing.

**Project Manager** Project Manager is the sole point of contact for all bidders, and is responsible for all activities designated to the Project Manager within the RFP, including but not limited to, distribution of RFPs and day-to-day contact with bidders.

**RFP** Request for Proposal.

**SFY** State Fiscal Year.

**State** The State of Maine.

**Subcontractor** Any person not in the employ of the vendor or any organization not owned by the Vendor, performing work that is the responsibility of the Vendor under a contract resulting from this solicitation.

**Voucher Option**

Voucher means payments made directly to adults to enable them to purchase covered homemaker services pursuant to Section 69.05 of the BEAS Policy Manual (see Appendix B).

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## 1.0 **INTRODUCTION**

The purpose of this Request for Proposals (RFP) is to select one or more agencies to provide homemaker services for adults and elderly consumers throughout the state, for an fifteen-month period beginning April 1, 2002. Future contracts will be renewable for four one-year periods, from July through June.

Respondents may propose to serve one, or any combination of, service areas (see Table 1), up to and including all seven service areas; however, a separate proposal has to be submitted for each area that a respondent proposes to serve. Preference will be given to proposals that serve more than one service area. (See review criteria in section 2.13, on pages 16 and 17.) If, as a result of the RFP process, a provider cannot be selected to serve part of the state, the Bureau reserves the right to reissue the RFP for a particular region, or for the entire state.

**Table 1**

	<b>BEAS Homemaker Service Areas</b>	<b>Avg. Number of Consumers Per Month</b>	<b>Maximum Funding Level For 15-month Period</b>
1	York	168	\$432,850
2	Cumberland	238	\$614,723
3	Androscoggin, Oxford, Franklin	188	\$484,320
4	Kennebec, Somerset	162	\$419,109
5	Sagadahoc, Knox, Lincoln, Waldo	151	\$390,317
6	Penobscot, Piscataquis, Hancock	206	\$530,312
7	Aroostook, Washington	124	\$319,865
	Total	1,237	\$3,191,496

Proposals cannot exceed the maximum funding level for each service area. Also, proposals should not exceed a unit cost of \$17.20 to serve both elderly and APS clients.



### **1.1 Background**

The BEAS Administered Homemaker Services is a state funded program to assist individuals with household or incidental personal care activities to improve or maintain adequate well-being. These services may be provided for reasons of illness, disability, absence of a caregiver, or to prevent adult abuse or neglect. State homemaker funds shall be used to purchase only the covered services that will foster restoration of independence, consistent with the consumer's circumstances and the authorized plan of care. Major service components include homemaker services, chore services, home maintenance services, incidental assistance with personal hygiene and dressing, and household management services.

Consumers include people age 18 and older who meet the eligibility criteria in Section 69 of the Bureau of Elder and Adult Services (BEAS) Policy Manual (See Appendix B) or are Adult Protective Services (APS) clients. Up to 20% of homemaker funds must be set aside in each service area to be available for APS clients. Funding is available to serve up to an average of 1,237 consumers per month statewide.

If one or more new providers are selected as a result of this RFP, BEAS will provide training within 30 days of the effective date of the contract(s) regarding BEAS homemaker policies and an overview of the long-term care system.

### **1.2 Acquiring Office And Project Management**

The Department of Human Services is the acquiring office. The Project Manager for this effort is:

John Baillargeon	Voice: (207) 624-5335 or 1-800-262-2232
DHS/BEAS	TTY: (207) 524-5442 or 1-888-720-1925
35 Anthony Avenue	FAX: (207) 624-5361
11 State House Station	E-mail: john.baillargeon@state.me.us
Augusta, ME 04333-0011	

### **1.3 Summary Of Key Events**

The State reserves the right to adjust any of these dates. If the dates are adjusted, all bidders who have received a copy of the RFP from the Project Manager will be notified in writing.

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<u>Activity</u>	<u>Date</u>
1. Request for Proposals Issued	August 26, 27, & 28, 2001
2. Informational Meeting/Bidder's Conference	September 26, 2001
3. Deadline for Written Questions	October 3, 2001
4. Response to Written Questions	October 17, 2001
5. Deadline for Filing Letter of Intent to Bid	October 29, 2001
6. BEAS Notifies Qualified Bidders	November 2, 2001
5. Proposal Due Date	November 29, 2001 @ 2:00 p.m. local time

#### **1.4 RFP Organization**

This RFP is organized into five sections and appendices.

- **Section 1 -- Introduction** provides bidders with general information on the objectives of this RFP, the State agencies involved in this procurement, the definitions, Current State of Maine technology relevant to this procurement, and the RFP organization.
- **Section 2 -- General Procedures and Instructions** provides bidders with general information on the procurement process and procurement rules. This section also describes the requirements the bidders must follow for the packaging and submission of the technical and cost proposals submitted in response to the RFP.
- **Section 3 -- Proposal Submission Requirements** defines the requirements for information on bidder identification, qualification, and experience. It also defines the requirements that bidders must follow in preparing the proposal including product features and cost information.
- **Section 4 -- Terms and Conditions** describes mandatory contractual provisions, payment provisions, and damages that may be imposed for contractor non-performance.
- **Section 5 -- Scope of Work** provides an overview of the scope of work and the tasks to be performed, State and contractor responsibilities, service specifications and requirements.

The appendices are included to supplement the information presented in this RFP.

- **Appendix A – Sample Human Services Contract** provides a sample of the terms and conditions expected of the successful bidder
- **Appendix B – Section 69, Bureau of Elder and Adult Services' Policy Manual**
- **Appendix C – Cost Schedules**
- **Appendix D– Qualification to Bid Form**
- **Appendix E– MED Form**

## **2.0 GENERAL PROCEDURES AND INSTRUCTIONS**

This section contains solicitation procedures, general proposal format information and submission instructions.

### **2.1 General Information**

This Request for Proposals (RFP) is to select one or more agencies to ensure statewide provision of homemaker services. Respondents may propose to serve one, or any combination of, service areas (see Table 1), up to and including all seven service areas; however, a separate proposal has to be submitted for each area that a respondent proposes to serve. Preference will be given to proposals that serve more than one service area. (See review criteria in section 2.13, on pages 16 and 17.) If, as a result of the RFP process, a provider cannot be selected to serve part of the state, the Bureau reserves the right to reissue the RFP for a particular region, or for the entire state.

The selected vendor will be responsible for providing services to meet the requirements identified in this RFP, and will be held accountable for meeting these requirements. Proposals must conform to the mandatory requirements of the RFP. No payment will be made under the resulting contract until approved by the Department.

Proposals must conform to all instructions, conditions, and requirements included in the RFP. Bidders are expected to carefully examine all documentation, schedules, and requirements stipulated in this RFP and respond to each requirement in their proposals in the format prescribed.

### **2.2 Type Of Contract**

Contracts with the selected bidder(s) will be settled based on actual units of service provided. Contracts written with the selected bidders will specify the number of consumers to be served and the projected number of units to be provided.

In addition to the provisions of this RFP and the winning proposal, which will be incorporated in the resulting contract, any additional clauses or provisions required by Federal or State law or regulation in effect at the time of execution of the resulting contract will be included (in priority order) as detailed in Subsection 4.1.

The Department reserves the right to make a contract award without any further discussion with the bidders regarding the proposals received. Therefore, proposals should be submitted initially on the most favorable terms available from a price and technical standpoint. The Department, however, reserves the right to conduct discussions with all responsible bidders who submit proposals determined to be reasonably likely of being selected for award.

**2.3 Ineligible Bidders**

Any contractor or vendor subcontractor involved in the preparation of this RFP and/or involved in the evaluation of proposals will not be permitted to be selected to perform any tasks resulting from this RFP.

**2.4 Communications With State Staff**

From the date of issue of this RFP and until a determination is made and announced regarding the selection of a vendor, all contact except those made pursuant to any pre-existing obligation, with personnel employed or contracted to the State of Maine must be approved in writing by the Project Manager. The only exceptions to these restrictions are:

- State personnel involved in oral presentations or personnel interviews (Department option).

Violation of this provision may result in disqualification of the bidder's proposal. Bidders are advised that only the Project Manager can clarify issues or render any opinion regarding the RFP. No individual member of the Department, employee of the State or member of the selection committee is empowered to make binding statements regarding this RFP. The Project Manager will issue any clarifications regarding the RFP in writing.

**2.5 Written Questions And Answers**

Questions regarding the meaning of any RFP provision must be submitted in writing to the Project Manager, in an envelope clearly marked "BEAS Homemaker Services, RFP #301331 Procurement Questions". Questions may be transmitted by FAX but must include a cover sheet clearly indicating that the transmission is to the attention of the Project Manager showing the number of pages transmitted, and be clearly marked "BEAS Homemaker Services, RFP #301331, Procurement Questions". Questions may also be sent via e-mail to the Project Manager. The Department assumes no liability for assuring accurate/complete FAX or e-mail transmission/receipt and will not acknowledge receipt except by addressing the questions received.

**Under no circumstances will questions asked in other than written form be entertained.**

The Department will respond in writing to all substantive questions received. Only those answers received in writing will be considered binding. Any information given to bidders concerning the RFP including written questions and answers will be furnished in writing to all bidders who have received a copy of the RFP from the Project Manager.

**2.6 Oral Presentation**

At the Department's option, oral presentations by bidders may be requested for the purpose of explaining or clarifying characteristics or significant elements related to the proposals. Bidders will not be allowed to alter or amend their proposals through the presentation process. Bidders will not be permitted to attend competitor oral presentations. The Department reserves the right to require and conduct oral presentations with bidders who submit proposals determined to be reasonably likely of being selected for award.

**2.7 Personnel Interviews**

At the Department's option, key personnel proposed by bidders may be requested to participate in a structured interview to determine their understanding of the service requirements, their authority and reporting relationship within the firm, management style, and any other relevant information. Bidders will not be allowed to alter or amend their proposals through the interview process, nor will they be permitted to attend competitor interviews.

**2.8 Disclosure of Data**

According to State procurement law, the content of all proposals, correspondence, addenda, memoranda, working papers, or any other medium which discloses any aspect of the Request for Proposals process will be considered public information when the award decision is announced. This includes all proposals received in response to this RFP, both the selected proposal and the proposal(s) not selected, and includes information in those proposals that a bidder may consider to be proprietary in nature. Therefore, the State makes no representation that it can or will maintain the confidentiality of such information.

**2.9 Cost of Proposal Preparation**

The entire cost for the preparation and submission of a proposal, and the attendance at any oral presentation, or personnel interviews will be borne by the bidder.

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**2.10 Proposals**

Following is a description of the proposal submission requirements.

**2.10.1 Submission of Proposals**

To facilitate the proposal evaluation process, one (1) original and five (5) duplicate paper copies (total of 6), plus one electronic copy of the entire proposal must be delivered by:

2:00 p.m. local time on November 29, 2001

To:

Division of Purchases  
Burton M. Cross Building, 4<sup>th</sup> Floor  
9 State House Station  
Augusta, ME 04333-0009

The proposal must be submitted in accordance with the instructions identified below.

**Proposals that arrive late or at a location other than that noted above will be rejected.**

Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to requirements, and completeness and clarity of content. Elaborate proposals are neither necessary nor desirable. If the bidder's proposal is presented in a fashion that makes evaluation difficult or overly time-consuming, it is likely that points will be sacrificed in the evaluation process.

The proposal must be bound on standard 8 ½" by 11" paper, except that charts, diagrams, and the like, which may be on foldouts which, when folded fit into the 8 ½" x 11" format. All pages must be consecutively numbered, starting with page 1. Figures and tables must be numbered and referenced in the text by that number. They should be placed as close as possible to the referencing text.

The proposal must also be delivered electronically in MS WORD format on either a 3.5" floppy diskette or CD.

A package containing the one (1) original and five (5) duplicate paper copies **(total of 6)**, plus one electronic copy of the proposal must be delivered by the date and time to the Bureau of Purchases at the address given in Subsection 2.10.1. The electronic copy (floppy disk or CD) must be included with the original proposal. The face of the package, whether mailed or hand delivered must bear the following legend, "BEAS

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Homemaker Services, RFP #301331 -- Confidential -- Open by Addressee Only”

An official authorized to legally bind the bidder must sign the proposal. The original copy of the proposal (original signature(s) required) will be marked “Original”.

2.10.2 Proposal Sections

The proposal must consist of thirteen (13) parts

The applicant must address, in writing, each item in this RFP. A summary cover sheet must be attached. Components of the Bid include:

1. Transmittal Letter
2. Executive Summary
3. Vendor Qualifications
4. Organizational Chart
5. Homemaker Service Area
6. Activities and Methods for Implementation
7. Training
8. Labor Shortage and Staff Retention
9. Responding to Calls
10. Quality Assurance Performance Standards and Measures
11. Problem Resolution and Tracking
12. Transitioning Consumers and Providers
13. Costs and Billing

Detailed instructions for the completion of the Proposal are found in Section 3 of this RFP.

2.10.3 Rejection of Proposals

The Department reserves the right to reject proposals that contain material deviations from the requirements of this RFP. It is understood that all proposals, whether rejected or not, will become part of the Department’s official file.

2.10.4 Revision of Proposals

The Department reserves the right to amend the RFP prior to the proposal due date. All bidders who received a copy of the RFP from the Project Manager will be notified in writing of any amendments to the RFP a minimum of seven (7) days prior to the due date. Should an amendment be issued with fewer than seven (7) days remaining prior to the date, the due date will be extended. The Department will not be responsible for any additional costs incurred as a result of any such changes in the RFP.

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2.10.5 Proposal Evaluation

The Department will evaluate the proposals in accordance with the criteria set forth in Subsection 2.13.2

2.11 **Rights of State Government**

This RFP does not commit the Department to award a contract, or pay any cost incurred in the preparation of a proposal for this RFP. The Department reserves the right to reject all proposals, and at its discretion may cancel or amend this RFP at any time.

By submitting a proposal in response to this RFP, the bidder grants to the Department the right to contact or arrange a visit in person with any or all of the bidder's clients.

2.12 **Notification of Bidder Selection**

**ALL BIDDERS WILL BE NOTIFIED IN WRITING AFTER THE SELECTION OF A SUCCESSFUL BIDDER.**

2.13 **Evaluation of proposals and contract award**

The Department will select the successful bidder through a formal evaluation process, as outlined in this section. Consideration will be given to capabilities or advantages that are clearly described in the proposal, confirmed by oral presentations or interviews if required, and verified by information from reference sources contacted by the Department. The Department reserves the right to contact individuals, entities or organizations who have had recent dealings with the firm or staff proposed whether they are identified as references or not.

2.13.1 Initial screening

Initial screening will consist of the review of proposal compliance with the mandatory proposal submission requirements of this RFP.

2.13.2 Evaluation

Those proposals that pass the Initial Screening will be evaluated for the ability to meet the requirements identified in this RFP. Costs are to be an accurate representation of any and all goods and/or services to be provided.

The proposal evaluation will consist of ten (10) areas totaling one hundred (100) points. The available points will be distributed as follows:



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	<b>Review Criteria</b>	<b>Possible Points</b>
A	Proposal includes all information and forms specified in section 3.1 to 3.12.	5
B	How well respondent addresses all items in section 3.3 to 3.12.	20
C	Respondent's description of qualifications and capacity to meet the scope of work are clear and credible.	10
D	Proposed quality assurance standards and measures reflect a commitment to quality service.	6.5
E	Proposed staffing, technical, and administrative structure assure sufficient management support for the program.	10
F	Proposed staff training and content demonstrate an understanding of homemaker services.	5
G	Proposed policies and timeframes for responding to calls from consumers, families, providers, and the Bureau reflect quality consumer service.	5
H	Half point for each service area bidder proposes to serve.	3.5
I	Does the budget reflect all the costs of the work proposed?	10
J	Unit Cost (UC): Lowest UC/UC of respondent X 25 =	25
<b>Total Score</b>		<b>100</b>

**2.14 Evaluation factors and award points**

Each member of the evaluation committee will evaluate the proposal responses. The selection of a vendor will be based on considerations from all phases of the evaluation process. Where items do not lend themselves to a strict numerical evaluation, a subjective rating based on the collective opinion and experience of the selection committee will be used.

During the evaluation, the evaluation and selection committee reserves the right to hold discussions with bidders to obtain clarification of pertinent items in their proposals. Any such discussion may only address services offered in the bidder's proposal; the offering may not be changed or altered. These discussions will be in accordance with applicable State procurement procedures. However, the State reserves the right to make an award without further support of the proposal received. Therefore, it is important that each proposal be submitted in the most favorable manner possible

**2.15 Additional Presentations/Interviews**

At the Department's option, top-scoring bidders may be requested to participate in oral presentations and personnel interviews as detailed in section 2.6 Oral Presentations and section 2.7 Personnel Interviews of this RFP. Following presentations and/or interviews, scores may be adjusted on the basis of information presented in these forums.

**2.16 Contract Award**

The Department's evaluation will result in the selection of a proposal which, taken as a whole, is best value to the Department. After analysis, evaluation and validation of bidder responses, the Department will notify all bidders in writing concerning their selection. The Department may require the selected bidder to participate in contract negotiations and to submit such price, technical or other revisions to their proposal as may result from negotiations. Upon resolution of the final negotiations, the Department will prepare a final contract and award. If for any reason the Department is unable to obtain an acceptable contract with the selected bidder, the selected bidder will be disqualified. In this event, the Department may then proceed to negotiate a contract with bidder of the next highest rated proposal, or may cancel negotiations entirely at the Department's discretion.

It is to be understood by all parties that the negotiated contract will be made in the best possible interest of the State and that the award decision will be final. The RFP and the proposal of the successful bidder will, at the Department's option, be incorporated into and form the basis of a legal contract. The contract will also include the provisions set forth in the standard State contract (sample copy attached in Appendix A) as well as any additional clauses or provisions required by Federal or State law or regulation in effect at the time of execution of the contract.

**2.17 Required Contractual Provisions**

There are certain requirements, established by the State, with respect to proposals submitted in response to this RFP. The words "shall", "must", and "will" (except when used to denote futurity) will be considered as indicative of a requirement in this RFP. Such requirements are to be considered as material to this procurement and may only be waived, in advance of submission of the proposal, by the Project Manager.

**2.18 Financial Capacity and Stability**

Evidence of adequate financial capacity and stability is a prerequisite to the award of a contract. Bidders must include in their Executive Summary financial documentation to establish their financial stability. This documentation must be submitted in accordance with the requirements of Section 3 of this RFP. The Department reserves the right to request any additional information to assure itself of a bidder's financial status.

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**2.19 Term**

This contract for services is for fifteen months with an option to renew on an annual basis for up to four additional years. At the end of any contract year, at the Department's option, the contract may be extended to include transition support.

### **3.0 PROPOSAL SUBMISSION REQUIREMENTS**

This section describes the requirements that must be met by bidders in preparing the Proposal. The Proposal will consist of thirteen (13), sections:

1. Transmittal Letter
2. Executive Summary
3. Vendor Qualifications
4. Organizational Chart
5. Homemaker Service Area
6. Activities and Methods for Implementation
7. Training
8. Labor Shortage and Staff Retention
9. Responding to Calls
10. Quality Assurance Performance Standards and Measures
11. Problem Resolution and Tracking
12. Transitioning Consumers and Providers
13. Costs and Billing

The Proposal must be submitted according to the instructions set forth in Sections 2 and 3 of this RFP.

#### **3.1 Transmittal Letter**

Proposals must be accompanied by a letter of transmittal written on the bidder's official business stationery and signed by an official authorized to legally bind the bidder. This Transmittal Letter must include the following:

- The BEAS Homemaker Service Area for which the respondent is submitting this proposal (see section 1, table 1);
- An itemization of all materials and enclosures submitted in response to the RFP;
- The bidder's Federal Tax Identification Number;
- The name, telephone number, fax number, and email address of the bidder's representative who may be contacted for all contractual matters;
- A statement that the bidder believes the proposed products and services meet all the requirements set forth in the RFP;
- An unequivocal statement which acknowledges and agrees to all of the rights of the State including the procurement rules and procedures, terms and conditions, and all other rights and terms specified in this RFP;
- An unequivocal statement of the bidder's willingness to enter into an agreement with the State which includes the terms and conditions included in the sample contract in Appendix A;

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- A statement that the person signing this proposal is authorized to make decisions as to the prices quoted and that (s)he has not participated, and will not participate, in any action contrary to the RFP;
- A statement that all pricing is in US dollars, and that all **cost schedules** have been completed and enclosed;
- A statement that any element of recurring or non-recurring cost that must be borne by the State has been identified and included in the bidder's proposal. This includes but is not limited to, hardware, software, maintenance, cabling, demonstration, consultation, shipping charges, installation costs, testing, manufacturer supplied programs, third-party software, licensing and systems support;
- If the use of subcontractor(s) is proposed, a statement from each subcontractor shall be appended to the transmittal letter and signed by an individual authorized to legally bind the subcontractor stating:
  - The scope and percentage of work to be performed by the subcontractor (measured as a percentage of total contract price), and
  - The subcontractor's capability and willingness to perform the work indicated;
- A statement that the proposal was developed without collusion;
- The bidder's assurance that the proposal will remain in full force and effect for at least ninety (90) days from the proposal due date specified in the RFP transmittal letter;
- A statement that the bidder agrees to participate in key personnel interview(s) and/or oral presentations(s), if opted by the Department;
- A statement that the proposed services and products provided will be compatible with the State standards for desktop software, e-mail, and networking.

The bidder may include other topics in the letter deemed appropriate.

**3.2 Executive Summary**

The Executive Summary will condense and highlight the contents of the Proposal to provide the selection committee with a broad understanding of the bidder's proposal. This will be a concise overview summarizing the bidder's commitment to performing the contract. The Executive Summary will include highlights of the following:

- Proposal overview
- Qualifications of key personnel
- Significant features of the bidder's approach to fulfilling the requirements
- Previous relevant experience
- Financial capacity and stability
- Training and implementation of services

Bidders should present their understanding of the problems being addressed by this RFP, the objectives and the intended results. Bidders should describe their understanding of the products and services as requested by the Department of Human Services. Bidders should summarize how their proposal meets the requirements of this RFP and why the bidder is best qualified to perform the work required.

### **3.3 Vendor Qualifications**

The Vendor Qualifications and Technical Approach section of the Technical Proposal must consist of the following subsections:

- Vendor qualifications
- Technical approach
- References
- Bidder identification and information
- Change in ownership
- Office location
- Relationships with the State
- Contract performance
- Bidder's qualifications and experience
- Staff qualifications
- Subcontracts/subcontractors
- Solution approach

#### **3.3.1 Bidder Identification and Information**

In response to this section of the RFP, bidders will:

- State the organization's full company or corporate name and give the address of the organization's headquarters office
- Specify how the entity is organized (proprietorship, partnership, corporation)
- Specify the State in which the bidder is incorporated or otherwise organized to do business
- Specify the year in which the bidder was first organized to do business, and whether or not the form of organization has changed in the interim (such as by subsequent incorporation, merger, or other organizational change), and any name changes. The intent of this requirement is to ascertain the longevity of continuous operation of the bidder, and the response should be formulated to provide that information as appropriate to the bidder's business circumstances
- Provide the Employer Identification Number.
- Describe significant changes, if any, in the organization which occurred during the current fiscal year or which are planned for the upcoming period.

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3.3.2 Change in Ownership

If any change in ownership or control of the company is anticipated during the twelve (12) months following the proposal due date, describe the circumstances of such change and indicate when the change will likely occur.

3.3.3 Office Location

State the address of the bidder's office location responsible for performance under the resulting contracts with the State of Maine in the event the bidder becomes the selected vendor.

3.3.4 Relationships with the State

In this section, the bidder shall describe any relationships it, or its subcontractors, may have or have had with the State over the last twenty-four (24) months. If no such relationship exists, the bidder must so declare.

3.3.4.1 Prior and Existing Contracts. If the bidder, or its predecessor, or any subcontractor in the bidder's proposal has contracted with the State, identify the contract number and/or any other information available to identify such contract(s). If no such contracts exist, so declare.

3.3.4.2 Bidder's Employee Relations to State. If any party named in the proposal is or was an employee of the State of Maine within the past twelve (12) months, identify the individual(s) by name, Social Security Number, State agency by which employed, job title or position held with the State, and separation date. If no such relationship exists, so declare.

3.3.5 Contract Performance

If the bidder or any proposed subcontractor has had a contract terminated for default during the past three (3) years, all such instances must be described as required below. Termination for default is defined as notice to stop performance due to the bidder's nonperformance or poor performance.

Bidders must submit full details of all terminations for default experienced by the bidder during the past three (3) years, including the other party's name, address and telephone number. The response to this subsection must present the bidder's position on the matter. If no such terminations for default have been experienced in the past three (3) years, so declare.

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If at any time during the past three (3) years, the bidder has had a contract terminated for convenience, nonperformance, non-allocation of funds, or any other reason, which termination occurred before completion of all obligations under the initial contract provisions, describe fully all such terminations including the name and address of the other contracting party and the circumstances surrounding the termination. If no such early terminations have occurred in the past three years, so declare.

3.3.6 Bidder's Qualifications and Experience

Bidders shall provide a summary that lists their previous work similar to the services as requested in this RFP, in size, scope and complexity. The summary that lists previous work must be organized under the following sub-sections/sub-headings (or each specific project reference must be divided into the following headings):

- The respondent's qualifications and capacity to provide homemaker services
- Any unique reasons why respondent is better able to serve the area(s) proposed to be served
- How agency would expand capacity to serve this or other areas if not currently providing services there
- Describe the organization's current licensures, accreditations and certifications. (Provide copies of relevant paperwork)
- Availability of qualified and experienced personnel, the availability of adequate facilities, general environment, and resources for the proposed services
- Information management systems
- Adequacy of plans for the administration of the program

Bidders will also provide narrative descriptions to highlight the similarities between their experience and the services requested in this RFP. Bidder and subcontractor experience will be listed separately. Bidders will identify projects on which they gained experience in products and services specified in this RFP.

If the bidder intends to subcontract any part of the bidder's performance hereunder, state the total percentage of work to be subcontracted (measured as a percentage of total contract price), and identify each subcontractor by name, address, and telephone number.

If the use of subcontractor(s) is proposed, a statement from each subcontractor shall be appended to the Transmittal Letter and signed by an individual authorized to legally bind the



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subcontractor stating:

- a. The scope and percentage of work to be performed by the subcontractor (measured as a percentage of total contract price), and
- b. The subcontractor's capability and willingness to perform the work indicated.

**3.3.7 Staff Qualifications**

Bidders will provide a summary of relevant experience of the proposed staff who will perform each of the major tasks areas described in this RFP. (Refer to Section 5)

The bidder will provide a narrative description of the experience each key staff member has in the areas relevant to this procurement and a current resume.

The current resume shall include the present position that the individual holds within the organization. If the identity of an individual is not known, a job description of the position is required. The State, in addition to assessing experience, will consider the resumes as a key indicator of the bidder's understanding of the skill mixes required to carryout the requirements of this RFP.

Bidder and subcontractor staff experience must be shown separately.

**3.3.8 References**

References will add to the substantiation that the bidder possesses the resources and understanding of the skills sufficient to carry out the requirements of this RFP.

**3.4 Organizational Chart**

Include an organizational chart of the entire agency, indicating how the homemaker program fits into the larger organization.

**3.5 Homemaker Service Area**

Referring to the BEAS Homemaker Service Areas listed in Table 1, list each homemaker service area for which you are submitting a proposal.

**3.6 Activities and Methods for Implementation**

Describe the activities and methods to be used to implement, administer, and provide all of the activities and services specified in Section 5, Scope of Work, of this RFP.

**3.7 Training**

Describe the training to be provided to staff, both initial and ongoing, and

provide any applicable training schedules.

**3.8 Labor Shortage and Staff Retention**

Explain how the respondent plans to deal with the labor shortage, as well as staff retention difficulties.

**3.9 Responding to Calls**

Provide proposed policies and timeframes to be used for responding to calls from consumers, families, providers, and the Bureau of Elder and Adult Services.

**3.10 Quality Assurance Performance Standards and Measures.**

List quality assurance performance standards and measures to be used for program evaluation.

**3.11 Problem Resolution and Tracking**

How the respondent will approach problem identification, tracking and resolution? How will corrective action be taken in situations where performance and/or quality of work does not meet the RFP, contract, and policy requirements?

**3.12 Transitioning Consumers and Providers**

Provide a plan for transitioning consumers and providers, the timeframe, and related costs, if respondent is not the current contractor for homemaker services.

**3.13 Costs and Billing**

The Cost Schedules must comply with the requirements presented in this section. The Department reserves the right to review all aspects of the cost proposal for reasonableness and to request clarification of any cost proposal where the cost component shows significant and unsupported deviation from the bidder's proposal, industry norms or in areas where detailed pricing is required. Bidders should be particularly diligent in assuring cost components match proposal solutions, as proposals will be scored on costs as they are submitted at the time of the proposal submission.

The schedules required that must be submitted with the cost section are contained in Appendix C. Bidders may prepare their own forms for submission, but must conform to the format of the forms contained in Appendix C. All forms are mandatory. If not submitted, bidder's proposal may be rejected. An official authorized to legally bind the vendor must sign Schedule A, Summary Cost Form-Expenses. All required signatures must be in ink. A signature printed mechanically, or with pencil or rubber stamps will not be accepted. The authorized official must initial erasures, or other changes. If required signatures are not provided, the vendor's proposal may be rejected. Vendors are required to submit the cost proposal

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schedules in both hard copy and electronically. The electronic format will be completed using Microsoft Excel on a 3 ½-inch high density diskette or CD.

3.13.1 Bid Price and Supporting Detail

The component costs of the bid for providing goods and services, set forth in this RFP, must be provided by completing and submitting the forms provided in Appendix C of this RFP labeled as follows:

- Summary Cost Form (Schedule A)
- Personnel & Administrative Costs (Schedule B)
- Equipment and Subcontract Costs (Schedule C)
- Justification Forms (Schedule D)
- MAAP Requirements (Schedule E)

Bidders are advised that submission of information in support of the cost schedules is strongly preferred by the Department to the extent that such information will assist in evaluating the reasonableness and rationale supporting the costs.

The amount (entered on Appendix C – Cost Schedule A) which represents the bidder's firm, fixed total cost for services inclusive of any and all tax liability (including Federal, State, local, and other), which may be incurred by the bidder for any activities defined by this RFP.

3.13.2. Billing

BEAS will advance funds to the contractor quarterly. The contractor will submit monthly reports of the consumers served by name and the number of units of service provided to each consumer.

#### **4.0 TERMS AND CONDITIONS**

This section of the RFP provides the Terms and Conditions associated with this procurement. The formal contract to be entered into with the successful bidder (hereinafter the "Contractor") shall contain, at a minimum, the terms and conditions set forth in this section and in the Sample Contract in Appendix B.

The term "Contract" as used here is defined as the legal agreement between the State and the successful bidder written as a result of this RFP.

#### **4.1 General**

The Contract between the Department of Human Services and the Contractor shall include:

- 1) State of Maine Contract for Special Services, Page 1 signatures;
- 2) State of Maine Contract for Special Services, Rider B, Payment and Other Provisions;
- 3) State of Maine Contract for Special Services, Rider A, Specifications of Work to be Performed;
- 4) State of Maine Contract for Special Services, Rider C, Exceptions to Standard Rider B;
- 5) State of Maine Contract for Special Services, Rider D, Additional Provisions;
- 6) State of Maine Contract for Special Services, Rider E, Further Requirements;
- 7) State of Maine Department of Human Services Request for Proposals, "BEAS Homemaker Services, RFP #301331" including all appendices and any amendments, and written questions and answers; and
- 8) the Contractor's proposal submitted in response to this RFP.

It is mutually understood and agreed that in the event of any conflict among the provisions of the documents, attachments, and/or exhibits that constitute the State of Maine Contract for Special Services with the vendor, referenced above, the conflict shall be resolved by giving precedence to the documents in the order listed, the Contractor's Proposal in response to the RFP being subordinate to all other listed documents. In the event that an issue is addressed in one document that is not addressed in the other documents, no conflict in language shall be deemed to occur. However, the State reserves the right to clarify any contractual relationship in writing with the concurrence of the contractor, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the contractor's proposal.

No modification or change of any provision in the Contract shall be made, or be construed to have been made, unless such modification is mutually agreed to in writing by the Contractor and the State. The Contract modification will be incorporated as a written amendment to the Contract. Memoranda of understanding and correspondence shall not be construed as amendments to the Contract.

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In Maine, authority to approve contracts on behalf of the State is vested in the initiating department, the State Contract Review Committee and the State Controller. The Contractor shall sign a contract which shall then be forwarded for approval and signature by all appropriate officials in the Maine State government. The Agreement Administrator shall be the single authority to act for the State under the Contract. Whenever the State is required by terms of the Contract to provide written notice to the Contractor, such notice must be signed by the Agreement Administrator or designee.

**4.2 Deviations from the RFP**

The requirements appearing in this RFP shall become a part of the terms and conditions of the Contract. Any deviations from the RFP must have been specifically defined by the Contractor in its proposal, which if accepted by the State, must become part of the Contract, but such deviations must not be in conflict with the basic nature of this offer. Such exceptions must be noted on BLUE paper attached to the Transmittal Letter (See Section 3.1). While the Department is very interested in the “best” solution that meets all its requirements, bidders should only take exceptions with due care since any exceptions deemed unacceptable by the Department may be grounds for eliminating or reducing the score of the bidder’s proposal. If the awarded bidder’s proposal includes any exceptions, the award itself will in no way indicate to the awarded bidder whether the exceptions, individually or collectively, are negotiable or non-negotiable

## **5.0 SCOPE OF WORK**

The selected agency(ies), hereinafter referred to as the homemaker agency(ies), will function as the authorized agent(s) for the Department in providing the services, pursuant to BEAS Policy. The activities to be provided by the homemaker agency(ies) will include the following:

- A. Determine program eligibility according to BEAS policy and medical/functional eligibility using the MED form. Determine which consumers are eligible for the voucher provision, as provided for in policy, and inform them or their surrogates of this option to arrange for and manage their own services.

For consumers found ineligible for homemaker services, the provider(s) will inform each consumer of alternative services or resources, and offer to refer the person to those other services.

Reassess consumers at least every six months to determine continuing eligibility and appropriateness of plan of care.

- B. Develop a plan of care for eligible consumers based upon task time allowances, specifying all the services to be delivered, including the number of hours for all covered services. Covered service elements include:
- 1) Routine household care, including sweeping, washing and vacuuming of floors, dusting, cleaning of plumbing fixtures (toilet, tub, sink), appliance care, changing of linens, refuse removal;
  - 2) Doing laundry within or outside the home, including washing and drying of clothing and household linens such as sheets, towels, blankets, etc.;
  - 3) Meal planning/preparation;
  - 4) Shopping, errands, and storage of purchased groceries;
  - 5) Chore services including, but not limited to, occasional heavy-duty cleaning, raising and lowering of combination screen/storm windows, repairs and similar minor tasks to eliminate safety hazards in the environment, lawn mowing or snow shoveling;
  - 6) Incidental personal hygiene, defined as how the person maintains personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, and washing/drying back and feet;
  - 7) Incidental help with dressing that includes how the person puts on, fastens, and takes off all items of clothing, including the donning and removal of stockings and/or socks;
  - 8) Transportation services necessary to perform covered services described in a recipient's plan of care, such as medical appointments. Reimbursement shall only be made for mileage in excess of ten (10) miles per single trip on a one

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way trip. Any individual providing transportation must hold valid State of Maine driver's license for the type of vehicle being operated. All providers of transportation services shall maintain adequate liability insurance coverage for the type of vehicle being operated.

Each BEAS Homemaker recipient may receive as many covered services as are required up to a maximum of ten (10) hours per month.

- C. For voucher consumers, the homemaker agency will:
- 1) Provide instruction to consumer or surrogate on the skills needed to hire, train, and schedule, supervise, and document the provision of services identified in the authorized plan of care,
  - 2) Establish a monthly cost limit based on the authorized plan of care,
  - 3) Explain the payment method used in the voucher option to the consumer or surrogate
  - 4) Reimburse the consumer monthly an amount that is not more than the actual cost of services provided, up to the cap established in the authorized plan of care, less any applicable consumer co-payment
  - 5) Provide face-to-face supervision every six months
  - 6) Provide the consumer with information, about the Long-term Care Ombudsman program, and Adult Protective Services.
- D. Establish and manage a waiting list when funding or staff are not available. The Homemaker Agency(ies) will maintain one waiting list for the counties they are authorized to serve. Waiting list must be reviewed and updated monthly.
- E. Determine consumer payment according to BEAS Policy, and inform consumers of their required payment towards the cost of services and that waivers of all or part of the assessed payment may be requested. Collect the required consumer payment. Grant waivers of consumer payment according to BEAS Policy.
- F. Establish and maintain a record for each consumer that includes at least:
- 1) The consumer's name, address, mailing address if different, and telephone number;
  - 2) The name, address, and telephone number of someone to contact in an emergency;
  - 3) Complete medical eligibility determination form and financial assessments and reassessments that include the date they were done and the signature of the person who did them;
  - 4) A careplan summary that promotes the consumer's independence and matches needs identified by the scores and timeframes on the MED form and on the careplan summary on the MED form, with consideration of other formal and informal services provided and which is reviewed no less frequently than semiannually. The service plan includes:
    - a. Evidence of the consumer's participation;
    - b. Who will provide what service, when and how often, the reason for the service and when it will begin and end;

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- c. The signature of the person who determined eligibility and authorized a plan of care.
- 5) A dated release of information signed by the consumer that conforms with applicable law, is renewed annually and that:
  - a. Is in language the consumer can understand;
  - b. Names the agency or person authorized to disclose information;
  - c. Describes the information that may be disclosed;
  - d. Names the person or agency to whom information may be disclosed;
  - e. Describes the purpose for which information may be disclosed; and
  - f. Shows the date the release will expire.
- 6) Documentation that consumers eligible to apply for a waiver for consumer payments, were notified that a waiver may be available;
- 7) Written progress notes that summarize any contacts made with or about the consumer and:
  - a. The date the contact was made;
  - b. The name and affiliation of the person(s) contacted or discussed the service plan includes;
  - c. Any changes needed and the reasons for the changes in the plan of care;
  - d. The results of contacts or meetings and, if applicable, quality assurance review committee (QARC) meetings; and
  - e. The signature and title of the person making the note and the date the entry was made.
- F. Prepare and submit the following reports to, and in a format approved by, the BEAS:
  - 1) Monthly service and consumer reports including admissions, discharges and active client lists, due no later than twenty days after the end of the month;
  - 2) Quarterly fiscal reports, due no later than twenty days after the end of the month;
  - 3) Quarterly and annual demographic reports, due no later than twenty-five days after the end of the quarter.
- G. The Homemaker Agency shall:
  - 1) Employ staff qualified by training and/or experience to perform assigned tasks and meet the applicable policy requirements.
  - 2) Comply with requirements of 22 M.R.S.A. §3471 et seq. and 22 M.R.S.A. §4011-4017 to report any suspicion of abuse or neglect.
  - 3) Pursue other sources of reimbursement for services prior to the authorization of Homemaker services.
  - 4) Operate and manage the program in accordance with all requirements established by rule or contract.
  - 5) Have sufficient financial resources, other than State funds, available to cover any Homemaker expenditures that are disallowed as part of the Bureau of Elder and Adult Services utilization review process.
  - 6) Inform in writing any consumer with an unresolved complaint regarding their services about how to contact the Long Term Care Ombudsman.



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- 7) Assure that costs to Homemaker services provided to a consumer in a twelve month period do not exceed the applicable annual number of hours established by the Bureau of Elder and Adult Services.
- 8) Implement an internal system to assure the quality and appropriateness of assessments to determine eligibility and authorize homemaker services including, but not limited to the following:
  - a. Consumer satisfaction surveys;
  - b. Documentation of all complaints, by any party, including any action taken and resolution;
  - c. Measures taken by the Authorized Homemaker Agent to improve services as identified in (a) and (b).
- 9) Contact each consumer quarterly to verify receipt of services, discuss consumer's status, review any unmet needs and provide appropriate follow-up and referral to community resources.
- 10) Participate in the Quality Assurance Review Committee (QARC) meetings as required by the Bureau of Elder and Adult Services.

# **APPENDIX A**

## **Sample Contract**



State of Maine  
Department of Human Services  
Bureau of Elder and Adult Services

New Agreement #: \_\_\_\_\_  
Replaces #: \_\_\_\_\_  
Copy #: \_\_\_\_\_

**Standard Agreement Summary Page**

Agency Name: \_\_\_\_\_

Project Name and Address (if different)

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Employer ID#: \_\_\_\_\_

Agency FY: \_\_\_\_\_ to \_\_\_\_\_

**Agreement Period**

**Type of Agreement**  
(Check one)

**Organization**  
(Check one)

Effective Date: \_\_\_\_\_

Termination Date: \_\_\_\_\_

Amended Effective Date: \_\_\_\_\_

Amended Termination Date: \_\_\_\_\_

\_\_\_\_\_ New

\_\_\_\_\_ Renewal

\_\_\_\_\_ Amendment

\_\_\_\_\_ Supplement Budget

\_\_\_\_\_ Revision

\_\_\_\_\_ Non-Profit

\_\_\_\_\_ For Profit

\_\_\_\_\_ Government

\_\_\_\_\_ Other (specify): \_\_\_\_\_

Method of Accounting: \_\_\_\_\_ Cash

\_\_\_\_\_ Accrual

\_\_\_\_\_ Subject to MAAP

Amount (\$)	Appropriation/Activity Number	CFDA#
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
Total:		

Continued on next page

Encumbrance #: \_\_\_\_\_

Encumbrance #: \_\_\_\_\_

**STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
Agreement to Purchase Services**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ is by and between the State of Maine, Department of Human Services, Bureau of Elder and Adult Services, hereinafter called "Department," and \_\_\_\_\_, located at \_\_\_\_\_, hereinafter called "Provider," for the period of \_\_\_\_\_, from \_\_\_\_\_ to \_\_\_\_\_.

The Employer Identification Number of the Contractor is: \_\_\_\_\_

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and, in consultation with the Department, perform the services, study or projects described in Rider A, and under the terms within this Agreement. The following Riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Services to be Provided
- Rider B - Method of Payment and Other Provisions
- Rider C - Exceptions to Rider B
- Rider D - DHS Additional Provisions
- Rider E – Further Requirements

IN WITNESS WHEREOF, the Department and the Provider, by their duly authorized representatives, have executed this agreement in \_\_\_\_\_ originals as of the day and year first above written.

**DEPARTMENT OF HUMAN SERVICES**

By: \_\_\_\_\_  
Rudolph Naples, Deputy Commissioner

and

**PROVIDER:**

By: \_\_\_\_\_  
Authorized Signature, Provider Representative

\_\_\_\_\_  
Typed Name & Title, Provider Representative

**Total Agreement Amount:** \_\_\_\_\_

\_\_\_\_\_  
State Controller

Approved: \_\_\_\_\_  
Chair, State Purchases Review Committee

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STATE OF MAINE  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF ELDER AND ADULT SERVICES

CERTIFICATION OF AUTHORIZATION

*(Use only for new contracts or when authorized persons change.)*

At a duly authorized meeting of the Board of Directors of \_\_\_\_\_ held on \_\_\_\_\_ it was VOTED that

and/or

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

and/or

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

of this organization be authorized to execute contracts in the name of and on behalf of said organization. It was further VOTED that

and/or

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

and/or

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

be authorized to submit requests for payments on behalf of this organization. Such execution of any contract or obligation in this organization's name shall be valid and binding upon this organization.

ATTEST: NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

This form must be signed by the President or Secretary of the Board.

---

## **Rider A-Specifications Of Services To Be Provided**

### **I. Agreement Summary**

Funds are provided under this Agreement for the provision of \_\_\_\_\_. The level of funding and service delivery requirements for each service category are detailed in Section III of this rider. The sources of funds and compliance requirements for this Agreement follow. (Amounts by funding source are provided in Rider A, III., A. Agreement Amount Summary.)

#### **A. State General Fund \$ \_\_\_\_\_**

\_\_\_\_\_ Priority Social Services Program, 22 MRSA Chapters 1501 and 1503, Department of Human Services, Bureau of Elder and Adult Services.

\_\_\_\_\_ Title 22, MRSA, Chapter 1453, Section 5105 et seq.: State Administrative Funds (PAC), Department of Human Services, Bureau of Elder and Adult Services.

\_\_\_\_\_ In-Home and Community Support Services for Adults with Long Term Care Needs, 22 MRSA, Subtitle 5, Chapters 1621-1625, Department of Human Services, Bureau of Elder and Adult Services.

\_\_\_\_\_ Assisted Living Program, 22 MRSA, Chapter 1665, Section 7915 Congregate Housing.

\_\_\_\_\_ Public Law \_\_, Chapter \_\_, an Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, \_\_\_\_, and June 30, \_\_\_\_.

\_\_\_\_\_ Public Law \_\_, Chapter \_\_, an Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and Changes to Certain Provisions of the Law Necessary to the Proper Operations of State Government for Fiscal Years Ending June 30, \_\_\_\_, and June 30, \_\_\_\_.

\_\_\_\_\_ Other: (List name of Act, title, and agency.)

\_\_\_\_\_ Other: (List name of Act, title, and agency.)

---

**Rider A**

**I. Agreement Summary (continued)**

**B. Federal Funds \$ \_\_\_\_\_**

- \_\_\_\_\_ Older Americans Act of 1965, and any amendments thereto, Department of Health and Human Services, Administration on Aging,  
Title III, Part: \_\_\_\_\_ Title V, SCSEP (17.235)  
\_\_\_\_\_ B (93.044) \_\_\_\_\_ D (93.043) \_\_\_\_\_ Title VII, Elder Abuse (93.041)  
\_\_\_\_\_ C (93.045) \_\_\_\_\_ E (93.052) \_\_\_\_\_ Title VII, Ombudsman (93.042)
- \_\_\_\_\_ Omnibus Budget Reconciliation Act of 1981, Title XX Block Grant to States for Social Services, Department of Health and Human Services, Administration on Children, Youth, and Families. (93.667)
- \_\_\_\_\_ Public Health Services Act (as amended by Public Law 101-557 and Alzheimer's Disease Amendments), Sections 398, 399, and 399A; the Alzheimer's Demonstration Grant Program, Department of Health and Human Services, Health Care Finance Administration. (93.951)
- \_\_\_\_\_ Health Insurance Counseling, Section 4360 Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law 101-508, Department of Health and Human Services, Health Care Finance Administration. (93.779)
- \_\_\_\_\_ Senior Medicare Patrol Project, Omnibus Consolidated Appropriation Act of 1999, Public Law 105-277, Department of Health and Human Services, Health Care Finance Administration. (93.048)
- \_\_\_\_\_ Other: (List name of Act, title, agency, and catalogue #.)
- \_\_\_\_\_ Other: (List name of Act, title, agency, and catalogue #.)
- \_\_\_\_\_ Area Agencies on Aging Only: USDA funds received through Bureau reimbursement; however, the USDA funds are not part of the above contract amount.  
Older Americans Act as Amended 1987, Title III, Part A, Section 311; USDA cash payments in lieu of donated foods, Department of Health and Human Services, Administration on Aging. (10.570)

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**Rider A**

**I. Agreement Summary (continued)**

**C. Applicable Guidelines and Restrictions**

Use of above State and Federal funds will be in accordance with the appropriate guidelines checked below and with the terms of this Agreement. In addition, use of Federal funds will be in accordance with restrictions contained in the appropriate CFDA; with Federal OMB Circulars A-110, A-122, and A-133; and with CMR 08-114, Chapter 1, as applicable.

1. \_\_\_\_\_ 45 Code of Federal Regulations, Chapter XVIII, Subchapter C, Part 1321. Department of Health and Human Services, Office of Human Development Services; Grants for State and Community Programs on Aging and any amendments thereto. (Regulations for the Older Americans Act).
2. \_\_\_\_\_ 45 Code of Federal Regulations, Part 74, Administration of Grants and any amendments thereto.
3. \_\_\_\_\_ 20 Code of Federal Regulations, Part 641, and 29 Code of Federal Regulations, Part 89, Senior Community Service Employment Program, May 17, 1995, and any amendments thereto. Department of Labor, Employment and Training Administration.
4. \_\_\_\_\_ Department of Human Services, Bureau of Elder and Adult Services Policy Manual, July 1, 1991, and any amendments thereto.
5. \_\_\_\_\_ Bureau of Maine's Elderly Fiscal Policy Manual, as revised, 1980, and any amendments thereto.
6. \_\_\_\_\_ Bureau of Social Services, Purchase of Service Policy Manual, effective October 1, 1986, and any amendments thereto.
7. \_\_\_\_\_ Maine Medical Assistance Manual, and any amendments thereto. (Maine Medicaid Program Regulations.)
8.   X   \_\_\_\_\_ Maine Uniform Accounting and Auditing Practices Act for Community Agencies (MAAP), and any amendments thereto.
9. \_\_\_\_\_ Other:



Rider A  
II. Reporting Requirements

The Provider agrees to submit the types of reports checked below, to be submitted as frequently as indicated. Provider understands that such reports are due at BEAS within 25 days after the end of each specified time period, and that subsequent payment installments will not be made until such reports are received and reviewed. Provider further agrees to submit such other data and reports as may be requested by the Agreement Administrator.

	Mthly.	Qtrly.	Six Month	Annual
<input type="checkbox"/> <b>Program reports</b> , that include an unduplicated count of people served by program, and the types and amounts of services provided and/or purchased, as described in Section III, Service Specifications/Performance Guidelines. Unduplicated counts are <b>not</b> required for the following services(s) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>Performance reports</b> , describing the progress in achieving the agreement goals, indicators, strategies, and measures, including any applicable data, for the services listed below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>Narrative reports</b> , addressing the points specified below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>Income and expense reports</b> , based on accrual accounting, reflecting accounts payable and receivable, for every program listed on Rider E., II. Budget-Expense.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> <b>Other</b> ,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Agency:  
Agreement Dates:

Page \_\_ of \_\_

## Rider A

### III. Service Specifications/Performance Guidelines

#### A. Agreement Amount Summary

<u>Funding Source</u>	<u>BEAS Agreement Amount</u>
<b>State:</b>	
_____ APS; HBC (Adult Protective Service; Home Based Care)	\$ _____
_____ APS; Regional	\$ _____
_____ APS; Special Revenue	\$ _____
_____ Alzheimer's Adult Day Care	\$ _____
_____ Alzheimer's Respite	\$ _____
_____ CHSP (Congregate Housing Services Program)	\$ _____
_____ HBC (Home Based Care)	\$ _____
_____ HBC Outreach	\$ _____
_____ Homemaker; BC&FS	\$ _____
_____ Homemaker; BEAS	\$ _____
_____ PAC (BEAS State Administrative Funds)	\$ _____
_____ PSSP (Priority Social Services Program)	\$ _____
_____ Volunteer Services	\$ _____
_____ Other:	\$ _____
_____ Other:	\$ _____
<b>State Subtotal:</b>	\$ _____
<b>Federal:</b>	
_____ Alzheimer's Demonstration Grant	\$ _____
_____ Health Insurance Counseling	\$ _____
_____ Older Americans Act, Title III Part:	
_____ B	\$ _____
_____ C	\$ _____
_____ D	\$ _____
_____ F	\$ _____
_____ Older Americans Act, Title V, SCSEP (Senior Community Service Employment Program)	\$ _____
_____ Older Americans Act, Title VII, Chapter _____	\$ _____
_____ Senior Medicare Patrol Project	\$ _____
_____ Title XX Block Grant to States for Social Services (SSBG)	\$ _____
_____ Other:	\$ _____
_____ Other:	\$ _____
<b>Federal Subtotal:</b>	\$ _____
<b>Total Agreement Amount:</b> <i>(sum of State &amp; Federal subtotals):</i>	\$ _____

Agency:  
Agreement Dates:

Page \_\_ of \_\_

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**Rider A**

**III. Service Specifications/Performance Guidelines**

**B. Description of Services**

Listed below are the services to be provided through this agreement.

Program/Service: \_\_\_\_\_

Definition:

Program/Service: \_\_\_\_\_

Definition:

Program/Service: \_\_\_\_\_

Definition:

**BEAS contracts do not have target groups or service codes.**

**Rider A**

**III. Service Specifications/Performance Guidelines (continued)**

**C. Performance Goals, Indicators, Strategies, and Measures**

*For each program or service (unless exempted by BEAS), list the approved goal and related indicators, and provide strategies as well as measures for each indicator. (include at least one strategy, and one to three measures, per indicator)*

**Program/Service Area: \_\_\_\_\_**

**Rider A**

**III. Service Specifications/Performance Guidelines (continued)**

**C. Performance Goals, Indicators, Strategies, and Measures**

*For each program or service (unless exempted by BEAS), list the approved goal and related indicators, and provide strategies as well as measures for each indicator. (include at least one strategy, and one to three measures, per indicator)*

**Program/Service Area:** \_\_\_\_\_

Agency:

Agreement Dates:

Page \_\_\_ of \_\_\_

## Rider A

### III. Service Specifications/Performance Guidelines (continued)

### D. Amount Of Services To Be Provided

The following services will be provided directly or through subagreement.

*(Provide service information for each program component.)*

[illegible]

\*If the services/units are provided through a subcontract, or if the total of the units times the unit cost is less than the cost of service, include the additional cost in this column.

**Rider A**

**III. Service Specifications/Performance Guidelines (continued)**

**E. Payment Schedule and Agreement Settlement**

**Payment Schedule**

Subject to the availability of funds and the other terms of this agreement, payments will be made to the Provider on the basis and frequency indicated below, up to the amount of the agreement price (Section I. Agreement Summary, Items A & B, of this rider).

*Type of Payment: (check appropriate type)*

*For: (check appropriate response)*

\_\_\_\_\_ 1. **Advance Payments**; made monthly for federal funds and quarterly for state funds, upon receipt of invoices based on contract amounts, adjusted for the contractor's available cash balances of federal funds. Payments may be adjusted by the BEAS for prior unspent balances of BEAS funds. Full payments may be withheld if the provider does not meet the reporting requirements outlined in Section II, Reporting Requirements, of this rider. If the contract with the provider is renewed, the funds provided for the subsequent contract period may be reduced by the amount of any approved carry-over funds resulting from the current contract.

\_\_\_\_\_ All BEAS agreement funds  
\_\_\_\_\_ All BEAS agreement funds, except those listed in number 2 below  
\_\_\_\_\_ The following funding sources only:

\_\_\_\_\_ 2. **Reimbursement**; payments for the funding sources listed to the right will be made on a reimbursement basis upon receipt of an invoice and a report of contracted services provided to eligible consumers, at the approved reimbursement rate. The contractor will submit invoices as frequently as indicated to the right:

\_\_\_\_\_ All BEAS agreement funds:  
\_\_\_\_\_ Monthly  
\_\_\_\_\_ Quarterly  
**OR**  
\_\_\_\_\_ The following funding sources only:

<i>Source</i>	<i>Mnth.</i>	<i>Qtrly.</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_ 3. **Other**;

**Rider A**

**III. Service Specifications/Performance Guidelines**

**E. Payment Schedule and Agreement Settlement (continued)**

**Agreement Settlement.**

This agreement will be settled on the basis indicated below, up to the amount of the agreement price (Rider B. 1.).

<i>Type of Settlement:</i>	<i>For all BEAS agreement funds:</i>	<i>For the following sources only:</i>
____ 1. <b>Cost Basis</b> ; for and in accordance with actual allowable costs. Any surplus will be divided among the cost sharing funding sources, based on each source's percentage of the available funds committed to the contract.	_____	
____ 2. <b>Unit Cost Basis</b> ; for reported, contracted services actually provided to eligible consumers, at the approved reimbursement rate. Reports must be acceptable to the Bureau before payment will be made. (Rider A, Section II. Reporting Requirements)	_____	
____ 3. <b>Other</b> ;	_____	



**Rider A**

**III. Service Specifications/Performance Guidelines (continued)**

**F. Bureau of Elder and Adult Services (BEAS) Additional Requirements**

The following are additional BEAS program requirements:

1. **Services to AMHI Consent Decree Class Members.** The Provider agrees to serve class members of the AMHI Consent Decree who are eligible for the services purchased through this agreement. The Provider further agrees to collect data and maintain client records, and to comply with all applicable provisions of the AMHI Consent Decree.
2. **SCSEP Requirements.** (only for providers receiving SCSEP funds)  
**(a) Administrative Restriction.** SCSEP funds will be provided on a reimbursement basis. Also, SCSEP funds may not be used to reimburse administrative or supervisory costs incurred in the operation of the SCSEP, but such costs may be included as part of the provider's local match.  
**(b) Maintenance of Effort.** The Provider guarantees maintenance of effort. SCSEP enrollees cannot perform work that causes displacement of provider or host site employees or reduces their hours of non-overtime work, wages, or employment benefits. SCSEP enrollees cannot perform work that impairs existing contracts for service or results in the substitution of federal (BEAS SCSEP) funds for other funds in connection with work that would otherwise be performed.
3. **CHSP Care Management Requirements.** If the Provider receives Congregate Housing Services Program (CHSP) funds, care management services for CHSP consumers cannot exceed \$45 per hour, and may be provided only to consumers with a demonstrated need for this service.
4. **Program Components Settlements.** (for area agencies on aging only) The area agency will provide separate final settlements for each of the following program components: nutrition, congregate housing, and social services/all other program components combined. Also the unrestricted funds committed to the contract, as reflected in the original contract budget or the final revised contract budget as approved by the Bureau of Elder and Adult Services, must be available and considered in determining the final settlement.
5. **Changes by the Provider.** Changes proposed by the Provider will be submitted in writing to the Agreement Administrator. Changes involving revisions in the amount of BEAS funds to the Provider and/or to the scope of work/services to be performed will be incorporated through an amendment, signed by both parties, and approved by the State Purchases Review Committee. Other changes will be deemed incorporated into and become a part of this agreement upon written approval by the Department.
6. **Other;**\_\_\_\_\_.
7. **Other;**\_\_\_\_\_.
8. **Other;**\_\_\_\_\_.

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## Rider B-Method Of Payment And Other Provisions

1. **AGREEMENT AMOUNT** \$ \_\_\_\_\_
2. **INVOICES AND PAYMENTS** The Department will pay the provider in accordance with the terms and schedule in Rider A,III,D. of this agreement. Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.
3. **BENEFITS AND DEDUCTION** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.
6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:  
  
who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.
7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.
8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

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**Rider B-Method Of Payment And Other Provisions (continued)**

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

- a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or physical or mental disability.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

- b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability.
- c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.
- e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.
- f. Providers and subcontractors with agreements in excess of \$50,000 shall also pursue in good faith affirmative action programs.
- g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

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**Rider B-Method Of Payment And Other Provisions (continued)**

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Provider shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
14. **ACCESS TO RECORDS** The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested.
15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.
16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it shall comply with all governmental ordinances, laws and regulations.

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**Rider B-Method Of Payment And Other Provisions (continued)**

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this contract by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this contract; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Agreement Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this state by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a "risk retention group" insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

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**Rider B-Method Of Payment And Other Provisions (continued)**

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHT** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Provider under this contract up to any amounts due and owing to the State with regard to this contract, any other contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

### **Rider C - Exceptions to Rider B**

No Exceptions to Rider B are granted under this agreement.

### **Rider D - DHS Additional Provisions**

The following provisions supplementing Rider B, Methods of Payment and Other Provisions, apply to all agreements with the Department of Human Services.

1. **Audit.** Funds provided under this agreement are subject to the audit requirements contained in the Maine Uniform Accounting and Auditing Practices for Community agencies (MAAP), and may further be subject to audit by authorized representatives of the Federal Government.
2. **Reporting Suspected Abuse/Neglect.** The Provider agrees that when any staff in its employ under this contract has reasonable cause to suspect that a child or an adult has been or is likely to be abused or neglected, the Provider will cause a report to be made to the Department of Human Services pursuant to 22 MRSA, subsections 3477 and 4011.
3. **Confidentiality.** In conformance with Federal and State statutes and regulations, the Provider and the Department will guarantee the protection of information of a confidential nature regarding all persons served under the terms of this agreement, including the proper care, custody, use and preservation of records, papers, files, communications of the agency and any such other items that may reveal confidential information about persons served through this agreement.
4. **Lobbying.** No Federal or State appropriated funds will be expended by the Provider for influencing or attempting to influence an officer or employee of any agency, a member of Congress or State Legislature, an employee of a member of Congress or State in connection with any of the following covered actions: the awarding of any agreement; the making of any grant; the entering into of any cooperative agreement; and the extension, continuation, renewal, amendment, or modification of any agreement, grant, or cooperative agreement. Signing this agreement fulfills the requirement that Providers receiving over \$100,000 in Federal or State funds file with the Department on this provision.

If any non-Federal or State funds have been or will be paid to any person in connection with any of the covered actions in this provision, the Provider will complete and submit a "Disclosure of Lobbying Activities" form.

5. **Drug-Free Workplace.** The Provider certifies that it will provide a drug-free workplace by: publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the provider's workplace and specifying the actions that will be taken against employees for violation of such prohibition; establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the provider's policy of maintaining a drug-free workplace, available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace, providing a copy of the drug-free workplace statement to each employee to be engaged in the performance of this agreement; notifying the employees that as a condition of employment under the agreement the employee will: abide by the terms of the statement; and notify the employer of any criminal drug conviction for a violation occurring in the workplace no later than five days after such conviction.

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**Rider D - DHS Additional Provisions (continued)**

The provider will notify the state agency within ten days after receiving notice of criminal drug convictions occurring in the workplace from an employee or otherwise receiving actual notice of such conviction; and will take one of the following actions, within 30 days of receiving such notice with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination; or requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

6. **Debarment and Suspension.** In signing this agreement, the Provider certifies to the best of its knowledge and belief that it and all persons associated with the agreement, including persons or corporations who have critical influence on or control over the agreement are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency.

The Provider further agrees that the Debarment and Suspension Provision will be included, without modification, in all sub-agreements.

7. **Environmental Tobacco Smoke.** By signing this agreement, the Provider certifies that it will comply with the Pro-Children Act of 1994, P.L. 103-227, Part C, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Provider further agrees that it will require the language of this certification be included in any sub-agreement.

8. **Medicare and Medicaid Anti-Kickback.** In signing this agreement, the Provider agrees that it will comply with the structures of 42 U.S.C. 1320a-7b(b) which prohibits the solicitation or receipt of any direct or indirect remuneration in return for referring or arranging for the referral of an individual to a provider of goods or services which may be paid for with Medicare, Medicaid, or state health program.
9. **Publications.** When issuing reports, brochures, or other documents describing programs funded in whole or in part with funds provided through this agreement, the Provider agrees to clearly acknowledge the participation of the Department of Human Services in the program. In addition, when issuing press releases and requests for proposals, the Provider will clearly state the percentage of the total cost of the project or program to be financed with agreement funds, and the dollar amount of agreement funds for the project or program.
10. **Motor Vehicle Check.** The Provider will complete a Bureau of Motor Vehicles check on all agency staff and volunteers who transport clients, or may transport clients. This check must be completed prior to allowing the staff person to transport clients, and at least every two years thereafter. If a staff member or volunteer's Motor Vehicles record contains any Operating Under the Influence or other violations that indicate an unsafe driving history, he/she is prohibited from transporting clients. The Provider will implement agency/program policy to assure compliance with this requirement.



**Rider D - DHS Additional Provisions (continued)**

11. **Ownership.** All notebooks, plans, working papers, or other work produced in the performance of this Agreement are the property of the Department and upon request shall be turned over to the Department.
12. **Software Ownership.** Upon request, the State and all appropriate Federal agencies shall receive a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to do so, all application software produced in the performance of this Agreement, including, but not limited to, all source, object and executable code, data files, and job control language or other system instructions.

*Rider E – Further Requirements*

**1. ADDITIONAL GENERAL REQUIREMENTS**

**1.1 Definitions**

<b>Provider</b>	<Name of Vendor>, and any of its subsidiaries, affiliated entities, or successors. For the purposes of this agreement, “Vendor”, “Contractor,” and “Provider” are synonymous.
<b>Deliverable</b>	The work products produced by the Provider for submission to the Department for its review and approval in accordance with the provisions of this Agreement.
<b>Department</b>	Maine Department of Human Services
<b>DHS</b>	Maine Department of Human Services
<b>DHS – DoTS</b>	Maine Department of Human Services – Division of Technology Services
<b>Effective Date</b>	The effective date of this Contract is the date the Contract is fully executed by the State and the Contractor, subsequent to the Contract’s approval by the State’s Purchases Review Committee.
<b>Event</b>	Any written or oral communication, direction, instruction, interpretation or determination by or from the Department’s Agreement Administrator, Project Manager, or any duly designated and authorized representative thereof, or any omission of the Department’s Agreement Administrator, Project Manager, or duly designated and authorized representative thereof
<b>Riders</b>	Written materials that are attached to this Contract and/or incorporated by reference
<b>Subcontractor</b>	Any person not in the employ of the Provider, or any organization not owned by the Provider including its officers, employees or agents, performing work which is the responsibility of the Provider under this Agreement, including any technical consultant, firm, or corporation retained by the Provider to furnish or supply services, materials, equipment or supplies in connection with this Agreement.
<b>Vendor</b>	<Name of Vendor>, and any of its subsidiaries, affiliated entities, or successors. For the purposes of this agreement, “Vendor,” “Contractor” and “Provider” are synonymous.

**1.2 Deviation from the RFP**

The requirements appearing in the RFP are a part of the terms and conditions of this Contract. In no event shall anything contained in the Proposal be deemed to supersede or contravene those terms and conditions.

## **Rider E – Further Requirements (continued)**

### **1.3 Modification**

No modification or change of any provision in this Contract shall be made, or be construed to have been made, unless such modification is mutually agreed to in writing by the Provider and the Department. The contract modification will be incorporated as a written amendment to the Contract. Memoranda of understanding and correspondence shall not be construed as amendments to this Contract.

### **1.4 Contract Price**

This is a contract for the services detailed in Rider A. The services will be provided for the amount specified in Rider B, which shall be payable pursuant to the payment schedule agreed upon in Rider A, III.E. Payment Schedule and Agreement Settlement.

### **1.5 Project Manager**

The Agreement Administrator may designate in writing a person or persons with delegated authority to act on the Agreement Administrator's behalf (the "Project Manager"), and the Provider may rely upon such designation until given notice of its revocation; provided, however, that in no event shall any such designation be effective to allow the Project Manager, without the approval of the Agreement Administrator, to (i) authorize the payment of invoices; (ii) consent to any amendment or modification of the Contract; or (iii) terminate this contract.

### **1.6 Interpretation**

#### **1.6.1 Reliance on Policy Determinations**

The Department shall determine all program policy. The Provider may from time to time request the Department to make policy determinations or to issue operating guidelines required for proper performance of this Contract, and the Department's Project Manager shall respond in writing in a timely manner. The Provider shall be entitled to rely upon and act in accordance with such written policy determinations and operating guidelines, unless subsequently amended, modified, or changed in writing by the Department, and shall incur no liability in doing so unless the Provider acts negligently, maliciously, fraudulently, or in bad faith. Nothing contained in this Contract, or in any agreement, determination, operating guideline, or other communication from the Department shall relieve the Provider of its obligation to keep itself informed of applicable State and federal laws, regulations, policies, procedures and guidelines, to be in complete compliance and conformity therewith.

#### **1.6.2 Titles Not Controlling**

Titles of paragraphs used herein are for the purpose of facilitating ease of reference only and shall not be construed to imply a contractual construction of language.

#### **1.6.3 Gender and Number**

The use of the masculine, feminine, or neuter gender, or of the singular or plural number, from time to time herein shall not be so construed as to require a particular implication therefrom, and any such gender or number may be implied as the context may require.

## **Rider E – Further Requirements (continued)**

### **1.6.4 No Rule of Construction**

The parties acknowledge that this Contract was initially prepared by the Department solely as a convenience and that all parties hereto, and their counsel, have read and fully negotiated all the language used in the Contract. The parties acknowledge that, because all parties and their counsel participated in negotiating and drafting this Contract, no rule of construction shall apply to this Contract that construes ambiguous or unclear language in favor of or against any party because such party drafted this Contract.

### **1.7 Advertising Award**

The Contract shall not refer to awards in commercial advertising in such a manner as to state or imply that the Provider or its services are endorsed or preferred by the State of Maine. News releases pertaining to this project will not be made without prior written approval from the State of Maine.

## **2. TYPE OF CONTRACT**

This Contract is a contract for the services specified in Rider A. The Contract amount is specified in Rider B, item 1. Payment and settlement details are provided in Rider A, III.E. Payment Schedule and Agreement Settlement.

### **2.1 Term of the Contract**

The term of this Contract shall begin on the first day after this Contract has been fully executed by the parties, and shall expire on the date specified on the Agreement to Purchase Services signature page, or at the completion of all specified tasks and delivery of all contracted products, goods, and services as defined in this Contract, including performance of any warranty and/or maintenance agreements, whichever is the later date, unless earlier terminated pursuant to the terms of this Contract. The contract for products, maintenance, and services may be renewed on an annual basis at the end of the warranty period at the discretion of the State of Maine.

## **3. ADDITIONAL TERMINATION REQUIREMENTS**

The performance of work under the Contract may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Contract is terminated and the date on which such termination becomes effective. In the event of any such termination, the Provider shall be entitled to receive just and equitable compensation for all accepted deliverables and satisfactory authorized work performed as of the termination date, subject to the terms of this Section 3 of this Rider E. In no event, however, shall the Provider be paid for loss of anticipated profit.

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**Rider E – Further Requirements (continued)**

Upon delivery to the Provider of a Notice of Termination, specifying the nature of the termination, the extent to which performance of work under this Contract is terminated, and the date upon which such termination becomes effective, the Provider shall:

- (i) stop work under this Contract on the date and to the extent specified in the Notice of Termination;
- (ii) take such action as may be necessary, or as the Department's Project Manager may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Provider and in which the Department has or may acquire an interest;
- (iii) terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;
- (iv) subject to the provisions of Section 3.2, assign to the Department in the manner and to the extent directed by the Department's Project Manager all of the rights, title, and interest of the Provider under the orders so terminated, in which case the Department shall have the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders, however, notwithstanding this provision, the Provider will not be obligated to assign any such rights, title or interest in the absence of payment therefore by the Department;
- (v) with the approval or ratification of the Department's Project Manager, settle all outstanding liabilities and all claims, arising out of such termination of orders, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Contract;
- (vi) subject to the provisions of Section 3.2, transfer title to the Department (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by the Department's Project Manager all files, processing systems, data manuals, or other documentation, in any form, that relate to all the work completed or in progress prior to the Notice of Termination; and
- (vii) complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.

The Provider shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.

The Department may withhold payment of any amount in excess of fair compensation for the work actually completed by the Provider prior to termination of this Contract and will be entitled to pursue all of its other available legal remedies against the Provider. Notwithstanding the above, the Provider shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Contract by the Provider.

Neither party shall be liable for any incidental or consequential damages arising or resulting from any breach of this Contract; provided, however, that the foregoing shall not be deemed to limit in any way the provisions of Section 18 of Rider B.

The imposition of liquidated damages shall not limit the Department's rights to pursue any other remedies available to it, including but not limited to the right to seek damages pursuant to this Section, provided, however, that the Department may not recover liquidated damages and actual damages for the same breach.

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## **Rider E – Further Requirements (continued)**

The Department may, by written notice of default to the Provider, provide that the Provider may cure a failure or breach of this Contract within a period of thirty (30) days (or such longer period as the Department's Agreement Administrator or Project Manager may authorize in writing), said period to commence upon receipt of the notice of default specifying such failure or breach. The Department's exercise of this provision allowing the Provider time to cure a failure or breach of this Contract does not constitute a waiver of the Department's right to terminate this Contract, without providing a cure period, for any other failure or breach of this Contract.

In any event, this Contract shall terminate at the time specified in Section 2.1 of this Rider E.

### **3.1 Assurances Before Breach**

If documentation or any other deliverables due under this Contract are not to the satisfaction of the Project Manager, the Provider will deliver additional Provider resources to the project in order to complete the deliverable to the satisfaction of the Department and to demonstrate that other project schedules will not be affected. Upon written notice by the Department's Project Manager of the Department's concerns regarding the quality or timeliness of an upcoming deliverable, the Provider shall, within five (5) business days of receipt of said notice, submit a corrective action plan documenting the Provider's approach to completing the deliverable to the satisfaction of the Department's Project Manager without affecting other project schedules. At his or her sole discretion, the Department's Project Manager, within five (5) business days of receipt of the corrective action plan, shall either approve the plan, reject the plan, or return the plan to the Provider with specific instructions as to how the plan can be modified to merit approval and a specific time period in which the revised plan must be resubmitted. Said determination, approving, rejecting, or returning the plan, shall not be subject to the dispute resolution mechanism set forth in Section 7 of this Rider E.

### **3.2 Department Options At Termination**

In the event the Department terminates this Contract pursuant to Section 3, Additional Termination Requirements, the Department may at its option:

- (i) retain all or a portion of such hardware, equipment, software, and documentation as has been provided, obtaining clear title to the same, and procure upon such terms and in such manner as the Department's Project Manager may deem appropriate, hardware, equipment, software, documentation, or services as are necessary to complete the project; or
- (ii) to the extent that the termination is predicated upon material breach of the Provider, return, as is, all or a portion of hardware, equipment, software, and documentation to Provider at Provider's expense in which instance the Provider must remit all moneys previously paid by the Department within five (5) business days of receipt of such hardware, equipment, software, and documentation.

Notwithstanding the above, nothing herein shall limit the right of the Department to pursue any other legal remedies against the Provider.

## **4. LIQUIDATED DAMAGES**

The Provider agrees that time is of the essence in the performance of this Contract. The Department and the Provider agree that in the event of a failure to meet the milestones and project deliverable dates or any standard of performance within the time set forth in the Provider's Updated Detailed Project Plan, damage

### **Rider E – Further Requirements (continued)**

shall be sustained by the Department and that it may be impractical and extremely difficult to ascertain and determine the actual damages which the Department will sustain by reason of such failure. It is therefore agreed that the Department, at its sole option, may require the Provider to pay liquidated damages for such failures with the following provisions:

Where the failure is the sole and exclusive fault of the Department, no liquidated damages shall be imposed.

For any failure by the Provider to meet any performance standard, milestone or project deliverable date, the Department may require the Provider to pay liquidated damages in the amount of \$5,000 per business day per deliverable, milestone, or performance standard for each and every business day thereafter until such deliverable, milestone, or performance standard is completed and accepted by the Department.

Written notification of failure to meet a performance requirement shall be given by the Department's Project Manager to the Provider. The Provider shall have five (5) business days or other period designated by the Department from the date of receipt of written notification of a failure to perform the specifications to cure the failure set forth in the written notification. If the failure is not resolved within this period, liquidated damages may be imposed retroactively to the date of expected delivery.

In the event that liquidated damages have been imposed and retained by the Department, any such damages shall be refunded, provided that the entire system turnover to the Department has been accomplished and approved by the Department according to the original schedule in the Updated Detailed Project Plan included in this Contract, as modified by mutually agreed upon change orders.

### **5. FAILURE TO PERFORM**

In the event the Provider has failed to perform any substantial obligation under this agreement, or has otherwise committed a breach of this Contract, the Department may withhold all moneys due and payable to the Provider, without penalty, until such failure is cured or otherwise adjudicated.

### **6. PROVIDER PERSONNEL**

The parties recognize that the primary value of the Provider to the Department derives directly from the Key Personnel assigned to the project. Key Personnel are deemed to be those individuals whose resumes were offered by the Provider in his Proposal. Therefore, the parties agree that Key Personnel shall be assigned to this project in accordance with the time frames in the most recent mutually agreed upon project schedule and work plan, and that no re-deployment or replacement of any Key Personnel may be made without prior written consent of the Department. Replacement of such personnel, if approved, shall be with personnel of equal or greater ability and qualifications.

The Department shall retain the right to reject any of the Provider's employees whose qualifications, in the Department's judgment, do not meet the standards established by the Department as necessary for the performance of the services. In considering the Provider's employees' qualifications, the Department will act reasonably and in good faith.

## **Rider E – Further Requirements (continued)**

The Provider may not propose individuals for this project that are employees of a State agency. Federal regulations prohibit the federal government from paying twice for any employee. For example, a person who is an employee of one state could not be employed to work on a project in a second state and be paid in any way by that state (including paid leave status) as long as any part of his state compensation is reimbursed by the federal government.

During the course of this Contract, the Department reserves the right to require the Provider to reassign or otherwise remove from the project any Provider or subcontractor employees found unacceptable by the Department. In considering the Provider's and subcontractors' employees' acceptability, the Department shall act reasonably and in good faith.

## **7. DISPUTES**

In the event of any dispute arising during the term of this Contract concerning performance of this Contract, either party will serve written notice of such dispute on the other party, and the dispute shall initially be decided by the Department's Project Manager who shall, within five (5) business days, reduce such decision to writing and serve a copy on the Provider. Should the Provider be dissatisfied with this decision, the Provider may, within five (5) business days of receipt of the decision, submit the dispute to the Department's Agreement Administrator for final resolution.

## **8. CONFIDENTIALITY OF INFORMATION**

All materials and information provided to the Provider by the Department, or acquired by the Provider on behalf of the Department, whether verbal, written, magnetic media, cards, or any other format shall be regarded as confidential information in accordance with the provisions of State and Federal law and ethical standards, and all necessary steps shall be taken by the Provider to safeguard the confidentiality of such material or information in conformance with State and Federal law and ethical standards.

## **9. PRIME CONTRACTOR RESPONSIBILITIES**

The Provider is solely responsible for fulfillment of this Contract with the Department. The Provider assumes responsibility for all services offered and products to be delivered whether or not the Provider is the manufacturer or producer of said services.

The Provider shall be wholly responsible for performance of the entire contract whether or not subcontractors are used. Any subcontract into which the Provider enters with respect to performance under this Contract shall not relieve the Provider in any way of responsibility for performance of its duties. Further, the Department will consider the Provider to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from this Contract. The Department shall bear no liability for paying the claims of any subcontractors, whether or not those claims are valid.

The Provider shall give the Department immediate notice in writing of any legal action or suit filed, and prompt notice of any claim made against the Provider by any subcontractor or vendor which may result in litigation related in any way to this Contract or which may affect the performance of duties under this



## **Rider E – Further Requirements (continued)**

Contract. The requirement of prior approval of any subcontract under this Contract shall not make the Department a party to any subcontract or create any right, claim or interest in the subcontractor or proposed subcontractor against the Department. The Contractor agrees to defend (subject to the approval of the Attorney General) and indemnify and hold harmless the Department against any claim, loss, damage, or liability against the Department based upon the prior approval requirements of this Section 9, Prime Contractor Responsibilities. No subcontract or delegation shall relieve or discharge the Provider from any obligations or liability under this Contract.

### **9.1 Subcontracts**

Unless provided for in this Contract, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Contract must be annotated “approved” by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

All subcontract agreements must contain the following requirements:

- (i) all subcontracts must contain the Assurances enumerated in Section 10 of this Rider E; and
- (ii) all subcontracting agreements must be signed and delivered to the Department’s Project Manager within five (5) business days following the subcontract execution date.

## **10. OWNERSHIP OF INFORMATION, SOFTWARE, AND DATA**

All notebooks, plans, working papers, or other work produced in the performance of this Contract are the joint property of the Department and upon request shall be turned over to the Department. The State and the Federal government shall have unlimited rights to use, disclose, duplicate, or publish for any purpose whatsoever all information and data developed, derived, documented, or furnished by the Provider under this Contract. The Provider shall furnish such information and data, upon the request of the Department, in accordance with applicable federal and state law.

## **11. WAIVER**

This contract may be modified only by written amendment executed by all parties hereto, and approved by the appropriate State officials and federal agencies. Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach.

**Rider E – Further Requirements (continued)**

**12. ADDITIONAL INSURANCE REQUIREMENTS**

**12.1 Minimum Insurance**

The Provider shall obtain, pay for, and keep in force the following minimum insurance and shall furnish a certificate or certificates evidencing that such insurance is in effect:

- (i) disability, workman's compensation, and unemployment compensation in accordance with the statutory requirements of the state where the work is performed;
- (ii) general liability insurance (including automobile and broad form contractual coverage) against bodily injury or death of any person in the amount of one million dollars (\$1,000,000) for any one occurrence; and
- (iii) insurance against liability for property damages as well as first-party fire insurance, including contents coverage for all records maintained pursuant to this Contract, in the amount of one million dollars (\$1,000,000).

**12.2 Certificates**

The Provider shall furnish to the Department a certificate(s) evidencing that required insurance is in effect, for the policy amounts, and applicable policy numbers and expiration dates, within ten (10) business days of contract signing. In the event of cancellation of any insurance coverage, the Provider shall immediately notify the Department of such cancellation. The Provider will be required to obtain suitable replacement coverage within fourteen (14) days of the cancellation. The Department, at its option, may impose a stop work order on the Provider until such replacement coverage is secured and approved by the Department. If a stop work order is imposed, the Department shall not be liable for any costs or lost profits incurred by the Provider.

**12.3 Notice of Change**

The Provider shall provide the Department with written notice at least ten (10) business days prior to any change in the insurance coverage obtained to comply with this section.

**12.4 Liability Not Limited**

The provisions of this Section 12 shall not be deemed to limit the liability or responsibility of the Provider or any of its subcontractors hereunder.

**12.5 Insurance Of Assumed Contractual Risk**

The Provider may insure any portion of the risk assumed under the provisions of this Contract based upon the Provider's ability (size and financial reserves included) to survive a series of adverse experiences, including withholding of payment by the Department, or imposition of penalties by the Department. Express prior written approval of the Agreement Administrator is required for any proposed program of self-insurance.

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**Rider E – Further Requirements (continued)**

**13. INSPECTION AND APPROVAL**

Final inspection and approval of all work required under this Contract shall be performed by the Department's Agreement Administrator and other officials that the State of Maine may so designate.

The State of Maine or its authorized representatives shall at all reasonable times have the right to enter the premises or such other place where duties under this Contract are being performed, to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be performed in such a manner that will not unreasonably delay work.

**14. CONFLICT OF INTEREST**

No official or employee of the State and no other public official of the State of Maine or the federal government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in this Contract.

The Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Provider further covenants that in the performance of this Contract, no person having any such known interests shall be employed.

**15. STATE PROPERTY**

The Provider shall be responsible for the proper custody and care of any State owned property furnished for Provider's use in connection with the performance of this Contract, and the Provider will reimburse the Department for its loss or damage, normal wear and tear excepted.

**16. FEDERAL INSPECTIONS**

During and after this project, the Federal funding agency or their authorized representatives shall be allowed access to inspect all Provider materials, documents, work papers, deliverables, or any such other items which pertain to this project. The Provider shall cooperate with any federal reviews and shall supply copies of any requested materials. This requirement also applies to any subcontractor(s) who may be engaged in the project. Any subcontract permitted by the Department must contain a provision which sets forth the subcontractor's agreement with the terms set forth in this paragraph.

**17. COPIES OF REPORTS**

Upon completion of the project, the Provider shall convey to the Department copies of all interim reports, cost records, data collection forms, and any other working papers that support final system approval. These items shall also be made available, upon request, to other authorized officials from the federal government.

**Rider E – Further Requirements (continued)**

**18. COPYRIGHT OF DATA**

The Provider may not publish or copyright any data without prior approval, unless otherwise stated herein; provided, however, that the Provider may publish source and object code without obtaining such prior approval. The State and the federal government shall have the right to publish, duplicate, use and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

“Data” shall mean all results, technical information, and materials developed and/or obtained in the performance of the services hereunder, including but not limited to, all reports, surveys, plans, charts, recordings (video and/or sound), pictures, drawings, analyses, source and object code, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.

**19. PATENT, COPYRIGHT, AND OTHER PROPRIETARY INDEMNIFICATION**

The Provider warrants that all services, equipment, software, supplies, and any other products provided hereunder to not and will not infringe upon or violate any patent, copyright, trade secret, or any other proprietary right of any third party. In the event of any claim by a third party against the Department, the Department shall promptly notify the Provider and the Provider shall cooperate in the defense and provide a defense to the Department of such claim at the Provider’s expense and shall indemnify the Department against any loss, cost, expense, or liability arising out of such claim, including reasonable attorney’s fees.

**20. ACCOUNTING REQUIREMENTS**

The Provider shall establish and maintain an accounting system in accordance with Generally Accepted Accounting Principles (GAAP). The accounting system shall maintain records pertaining to the tasks defined in this Contract and all other costs and expenditures made under this Contract.

Specific accounting records and procedures are subject to State and Federal approval. Accounting procedures, policies, and records shall be completely open to state and federal audit at any time during the contract period and for five years thereafter.

**21. AUDIT REQUIREMENTS**

The Provider shall maintain books, records, documents, and other evidence pertaining to the administrative costs and expenses of this Contract to the extent and in such detail as shall properly reflect all revenues, all net costs, direct and apportioned, and other costs and expenses of whatever nature as relating to performance of contractual duties under the provisions of this Contract. The Provider’s accounting procedures and practices shall conform to Generally Accepted Accounting Principles (GAAP) and the costs properly applicable to this Contract shall be readily ascertainable therefrom.

For work to be performed on an hourly reimbursement rate or cost reimbursement basis, the allow ability of direct and indirect costs shall be governed by 41 C.F.R., Subpart 1-15.2.

**Rider E – Further Requirements (continued)**

**22. RECORDS RETENTION REQUIREMENTS**

The Provider hereby agrees to the conditions of 45 C.F.R., Part 74.24 (a), (b), and (d) regarding retention and access requirements relating to all financial and programmatic records, supporting documents, statistical records, and other records of this Contract. In addition, the Provider shall agree to the following terms regarding retention of contract records and access for government officials.

Unless the Department specifies in writing a shorter period of time, the Provider agrees to preserve and make available all other pertinent books, documents, papers, and records of the Provider involving transactions related to this Contract for a period of five years from the date of expiration or termination of this Contract.

Records involving matters in litigation shall be kept for one year following the termination of litigation, including all appeals if the litigation has not terminated within five years.

The Provider hereby agrees that authorized federal and State representatives shall have access to and the right to examine the items listed above during the contract period and during the five year post-contract period or until resolution. During the contract period, the access to those items will be provided at the Provider's office at all reasonable times. During the five year post-contract period, delivery of and access to the listed items will be at no cost to the Department.

The provision of this section shall be incorporated in any subcontract of \$10,000 or more.

**23. AUDIT LIABILITIES**

The Provider shall be liable for any State or Federal audit exceptions that arise out of any action, inaction, or negligence by the Provider. In the event of an audit exception for which the Provider is liable as defined in this Article, the Provider shall have thirty (30) days to remedy this exception. If the Provider fails to remedy the exception within this time period, the Provider shall immediately return to the Department all payments made under this Contract which have been disallowed in the audit exception.

**24. TAXES**

The Department is not required to pay taxes of any nature; however, if Provider is required to pay sales, use, value-added, or other federal, state, or local taxes based on the licenses or services provided in this Contract, except taxes based on Provider's income or property tax for software, then such taxes shall be reimbursed by the Department upon evidence of payment by Provider.

**25. PRICE PROTECTION**

The Provider shall ensure that all prices, terms, and warranties included in this Contract are comparable to or better than the equivalent terms being offered by the Provider to any present customer meeting the same qualifications or requirements as the Department. If, during the term of this Contract, the Provider enters into agreements which provide more favorable terms to any other comparable customer(s), the Provider shall provide the same terms to the Department.

## **Rider E – Further Requirements (continued)**

### **26. LOBBYING CERTIFICATION**

Section 1352 of Title 31 of the U.S. Code requires that funds appropriated to a Federal agency be subject to a requirement that any Federal Provider or grantee (such as the Department) certify that no Federal funds will be used to lobby or influence a federal officer or member of Congress. The certification the Department has been required to sign provides that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall verify and disclose accordingly. The certification also requires the completion of Federal lobbying reports and the imposition of a civil penalty of \$10,000 to \$100,000 for failing to make a required report. As a sub-recipient, the Provider understands and agrees to the Federal requirements for certification and disclosure.

### **27. PRICING AND DISCOUNT**

The Provider warrants that any element of recurring or nonrecurring cost in excess of the Contract Price designated in Section 1.6 of this Rider E which must be borne by the Department has been identified by Provider in their Proposal.

Federal funding is being used for acquisition of products and/or services, under this Contract. Consequently, interest cannot be paid under any installment purchase or lease/purchase agreement entered into as a part of this Contract.

Provider agrees to convey to the Department good title to purchased items free and clear of all liens, pledges, mortgages, encumbrances, or other security interest.

### **28. COVER**

If, in the reasonable judgment of the Department, a default by the Provider is not so substantial as to require termination, reasonable efforts to induce the Provider to cure the default are unavailing, and the default is capable of being cured by the Department or by another contractor without unduly interfering with continued performance by the Provider, the Department may provide or procure the services reasonably necessary to cure the default, in which event the Provider shall reimburse the Department for the reasonable cost of those services.

### **29. EXTENSIONS**

In the event Provider is delayed by any act or omission of the Department, including, without limitation, the Department's failure to deliver any material to be provided by the Department when and as required, or to perform any of its covenants or obligations hereunder, or the failures of any third parties hired by the Department, then for each day of extension caused by such delay, Provider shall be entitled to a one-day extension of the time for Provider's performance. A listing of specific Department deliverables, responsibilities, and due dates will be agreed upon from time to time by the Department and Provider.

**Rider E – Further Requirements (continued)**

**30. REPORTING REQUIREMENTS**

The Provider shall submit reports as specified in Rider A, Section II, Reporting Requirements.

**31. ADA**

The Provider certifies that all information technology products and software used and/or developed as part of this Contract must comply with the “State of Maine’s Computer Accessibility Standard” adopted by the Information Services Policy Board 1/13/98 and attached in Appendix A.

**32. CIVIL RIGHTS ACT AND REHABILITATION ACT ASSURANCES**

In addition, compliance with the Title VI of Civil Rights Act of 1964 (42 USC 2000d et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 USD 794); and the United States Administration for Children and Families Regulations found in 45 CFR, parts 80 and 84 is required of the Vendor and all subcontractors.

**33. ATTORNEY FEES AND COST LITIGATION**

In the event of any litigation, appeal, or other legal action to enforce any provision of the Contract, the Vendor agrees to pay all expenses of such action, including attorney’s fees and costs at all stages of litigation, if the Department is the prevailing party.

Agency:  
Agreement Dates:

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## **APPENDIX A (Of Sample Contract)**



## **COMPUTER APPLICATION PROGRAM ACCESSIBILITY STANDARD**

**Approved by Information Services Managers' Group 12/10/97**

**Adopted by the Information Services Policy Board 1/13/98**

### **INTRODUCTION**

The purpose of this standard is to ensure that the needs of state employees and citizens of the State of Maine with disabilities are met through reasonable accommodation in the IT products and services of the state. IT products and services include data, voice, and video technologies.

### **1 Software**

#### *1.1 Keyboard Access*

1.1.1 A program must provide keyboard access to all functions of the application. All actions required or available by the program must be available with keystrokes, i.e., keyboard equivalents for all mouse actions including ,but not limited to, buttons, scroll windows, text entry fields and pop-up menus.

1.1.2 A program must have a keyboard control sequence among all program controls and focal points. (e.g. using the tab key to navigate among edit fields, text boxes, buttons, and all other controls.

1.1.3 The focus must follow the keystroke, that is, using the arrow keys to navigate through a list followed by pressing the ENTER key or spacebar to select the desired item.

1.1.4 The software shall not interfere with existing accessibility features built into the operating system, such as Sticky keys, Slow Keys and Repeat Keys.

1.1.5 Timed responses are not to be used unless the timing parameter can be adjusted by an individual user.

1.1.6 There shall be selectable visual and auditory indication of key status for all toggle keys. (i.e. visual and auditory status indicators for keys such as the Number Lock, Shift/Caps Lock, and Scroll Lock keys.

#### *1.2 Icons*

1.2.1 All icons shall have clear precise text labels included on the focus or provide a user-selected option of text-only buttons.

1.2.2 The use of icons shall be consistent throughout the application

1.2.3 Pull-down menu equivalents must be provided for Icon functions (menu, tool and format bar).

1.2.4 There must be keyboard access to all pull-down menus.

1.2.5 For graphic text, system text drawing tools or other industry standard methods must be used so that screen reader software can interpret the image.

### 1.3 *Sounds*

1.3.1 A visual cue for all audio alerts must be provided.

1.3.2 The Sounds feature must be supported where built into the operating system.

1.3.3 The user must be allowed to disable or adjust sound volume.

### 1.4. *Display*

1.4.1 Color-coding is not to be used as the only means of conveying information or indicating an action. An alternative or parallel method that can be used by individuals who do not possess the ability to identify colors must always be provided.

1.4.2 The application must support user defined color settings system wide. Highlighting should also be viewable with inverted colors.

1.4.3 No patterned backgrounds behind text or important graphics are to be used.

1.4.4 User adjustment of, or user disabling of flashing, rotating or moving displays must be permitted to the extent that it does not interfere with the purpose of the application.

### 1.5 *Field Labeling*

1.5.1. Consistently position the descriptions or labels for data fields immediately next to the field.

### 1.6. *Reports and Program Output*

1.6.1 All reports and program output must be available in a format that is accessible by screen readers and other access systems.

## **2 Documentation**

2.1 All documentation must be accessible through industry standard accessibility tools

2.2 Accessibility features must be written and provided as part of documentation for the product.

### **3 Definitions**

3.1 Focus: The "current point of action" as indicated by a visual indicator such as a carrot or focus rectangle.

3.2 Sticky keys: Sticky keys is a feature of Windows 95 and other operating systems that will allow keys such as the alt, control and shift to maintain their depressed state without being depressed. I.e. to execute a control (O with sticky keys the user would tap the control key then tap the o key).

3.3 Inverted colors: Inverted colors are the opposite of each other. For example, the inverse of black on white is white on black.

**APPENDIX B**  
**Sections 40 & 69**  
**BEAS Policy Manual**

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## Bureau of Elder and Adult Services Policy Manual

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Section 40      Administrative Requirements for All Parties      Effective November 1, 1997

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### SECTION 40: ADMINISTRATIVE REQUIREMENTS FOR ALL PARTIES

#### 40.01 RESPONSIBILITY OF AAA, SERVICES PROVIDERS AND AUTHORIZED AGENTS OF THE BUREAU OF ELDER AND ADULT SERVICES WHEN DENYING, REDUCING OR TERMINATING BUREAU OF ELDER AND ADULT SERVICES FUNDED SERVICES

- (A) **Notice of Intent to Deny, Reduce or Terminate Services.** When a AAA, service provider or authorized agent of the Bureau of Elder and Adult Services decides to deny, reduce or terminate services to a consumer, the consumer must be given written notice. Written notice must be made at least ten (10) calendar days before the effective date of the termination or reduction of services, except as provided in Section 40.01(A)(2) below.
- (1) Specific information that must be included in these notices include:
- (a) A statement of the intended action;
  - (b) An explanation of the action being taken;
  - (c) The effective date of the action;
  - (d) An explanation of the consumer's right to request a hearing before the Office of Administrative Hearings as provided for in Section 40.04 of this Manual;
  - (e) The name, address and telephone number of the person to be contacted to request a hearing;
  - (f) The availability of legal assistance and advocacy agencies and the address and telephone number of such agencies;
  - (g) An assurance that in situations where services are currently being provided to the consumer, the services will be continued until a hearing has been held and a final decision rendered by the Office of Administrative Hearings and/or the Commissioner of Human Services, provided that the request for a hearing has been received within ten (10) calendar days of the date of the notice of reduction or termination.
- (2) When continued service to a consumer would endanger the life, health or safety of other individuals including other consumers or agents or employees of the AAA, service provider or authorized agent, services may be discontinued immediately as long as the AAA, service provider or authorized agent gives the consumer written notice. The written notice must include the information listed in 40.01(A)(1) (a) - (f).
- (3) When the written care plan developed between the consumer and the authorized agent includes a scheduled reduction or termination of services, written notice is not required.
- (B) Except as otherwise provided in Section 40.01(A)(2), when services are currently being provided to the consumer the services will be continued until a hearing has been held and

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## Bureau of Elder and Adult Services Policy Manual

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**Section 40**      **Administrative Requirements for All Parties**      **Effective November 1, 1997**

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a final decision rendered, provided that the request for a hearing has been received within ten (10) calendar days of the date of the notice of reduction or termination.

### **40.02 COMPLAINT RESOLUTION FOR AAA, SERVICES PROVIDERS AND AUTHORIZED AGENTS OF THE BUREAU OF ELDER AND ADULT SERVICES AFFECTED BY ACTIONS OF BUREAU OF ELDER AND ADULT SERVICES**

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**(A) Parties Entitled to Complaint Resolution.** Parties who have been adversely affected by actions the Bureau of Elder and Adult Services shall have the opportunity to use this complaint resolution procedure. This Section (40.02) does not apply to:

- (1)** Requests for waivers regarding consumer payments.
- (2)** Allegations of misconduct of Bureau of Elder and Adult Services staff which are handled in accordance with the external complaint procedures of the DHS Personnel Division; and
- (3)** Actions by Bureau of Elder and Adult Services staff carrying out Adult Protective legal mandates.
- (4)** Award decisions of the Bureau of Elder and Adult Services based on requests for proposals.

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**(B) Complaint Resolution Procedures of the Bureau of Elder and Adult Services.**

- (1)** A party may make a written or verbal request for complaint resolution to the Bureau of Elder and Adult Services' central office. The request must be received within ten (10) days of the date of the adverse action except where good cause exists under Section 40.03 of this Manual.
- (2)** The Bureau of Elder and Adult Services shall make a record of every request for complaint resolution.
- (3)** The Director of Bureau of Elder and Adult Services or designee shall determine whether complaints are excluded under (A) above.
- (4)** The Bureau of Elder and Adult Services shall hold an informal conference within twenty (20) calendar days of the complainant's request. Bureau of Elder and Adult Services shall give written notice seven (7) days prior to the date of the informal conference to the following parties:
  - (a)** The complainant by registered mail;
  - (b)** The complainant's designated representative, if applicable.
- (5)** The Director of the Bureau of Elder and Adult Services or a designee shall conduct the informal conference and shall allow all participants to offer relevant information during the conference.
- (6)** The Director of the Bureau of Elder and Adult Services or a designee shall make a record of the conference, including the identity of those participating, a summary of the information present, a copy of all written material presented or submitted and, an audio tape.

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- (7) The Director of the Bureau of Elder and Adult Services or a designee shall issue a written decision on the matter within fifteen (15) calendar days of the conference. The Bureau of Elder and Adult Services shall mail a copy of the decision to each of the parties entitled to notice under Section 40.02(B)(4), above. The Bureau of Elder and Adult Services shall send the complainant's copy by certified mail, return receipt requested.
- (8) In its written decision the Bureau of Elder and Adult Services must include the following information:
- (a) A brief statement of reasons for the decision;
  - (b) An explanation of the complainant's right to request a hearing before the Office of Administrative Hearing (OAH);
  - (c) The deadline for requesting a hearing from the OAH;
  - (d) The availability of legal assistance and advocacy agencies and the name, address and telephone number of such agencies;

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### **40.0403      A GOOD CAUSE EXCEPTION**

- (A) **Failure to File Timely Request.** Any time a consumer fails to request complaint resolution or a waiver of payment within the time periods contained in these rules, the consumer will be considered to have waived or abandoned his/her appeal rights, unless good cause for failure to meet the deadlines can be demonstrated by the consumer.

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- (1) A request for a good cause exception must be in writing and received within 10 days after good cause no longer exists to:
- (a) The Director of the relevant AAA, service provider, or authorized agent of the Bureau of Elder and Adult Services if the claim involves a consumer payment; or
  - (b) The Director of the Bureau of Elder and Adult Services, for all other claims.
- (2) The Agency or Bureau of Elder and Adult Services must make a finding and issue a written decision within seven (7) days.
- (B) **Good Cause.** Good cause exists if during the time period when the complaint resolution or waiver request should have been filed, there is:
- (1) A death or serious illness in the complainant's immediate family or household; or
  - (2) A personal injury or illness which reasonably prevents the consumer from making a timely request for complaint resolution or a waiver; or
  - (3) An emergency or unforeseen event which reasonably prevents the complainant from making a timely request for complaint resolution or a waiver; or

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(4)      The Bureau of Elder and Adult Services, Agency, or a State employee acting in his or her official capacity has given the complainant incorrect or incomplete information about when or how to request complaint resolution or a waiver.

(C)      **Right to Appeal Denial of Good Cause.** A consumer whose claim of good cause has been denied will be notified of this conclusion. The notice will inform the complainant of the right to request an Administrative Hearing as described in section 40.04. The request for a hearing must be received within ten (10) calendar days of the date of the notice.

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### 40.04 HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS (OAH)

(A)      **Parties Entitled to a Hearing.** Parties who have been adversely affected by a denial, reduction or termination of benefits by a AAA, service provider, or authorized agent of the Bureau of Elder and Adult Services, or parties who have exhausted the complaint resolution procedure in Section 40.02 of this Policy Manual, may request an administrative hearing before the OAH.

(B)      **Hearing Procedures.** Hearings shall be governed by the Administrative Procedures Act, 5 M.R.S.A. Sections 9051-9062, and by the OAH's Administrative Hearings Manual (hereinafter called the AHU Manual), and by the provisions of this section. The process includes:

- (1)      The Bureau of Elder and Adult Services must receive a request for a hearing either verbally or in writing from the consumer or their designated representative within ten (10) calendar days of the date of the notice of adverse action;
- (2)      The OAH will give the notice of the hearing to the appropriate parties
- (3)      After the hearing, reports, recommendations and final decisions of the OAH and/or the Commissioner of Human Services shall be mailed to the appropriate parties;
- (4)      The written decision shall be a final decision and set forth the complainant's rights to appeal.
  - (a)      For any applicant for designation as a PSA, the written decision shall state that the party has the right to appeal the decision to the Commissioner of the United States Administration on Aging, in accordance with 45 CFR Section 1321.31.
  - (b)      For all other parties, the written decision shall state that the party has the right to appeal the decision to the Maine Superior Court, as provided in 5 M.R.S.A. Sections 11001-11008.

### 40.05 CONFIDENTIALITY OF INFORMATION

(A)      **Confidentiality.** The Bureau of Elder and Adult Services, the AAA's and all service providers and authorized agents are prohibited from disclosing to anyone who is not an agent or employee of their agency any information received about a consumer in the conduct of their responsibilities unless one of the following conditions is met:

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- (1) Disclosure of the information is required by court order or to comply with reporting provisions under the Adult Protective Services Act;
- (2) Disclosure of the information is required for program monitoring and evaluation by Federal or State law;
- (3) The information is disclosed in a form that does not identify the person. The information disclosed shall exclude the consumer's name, address, social security number, and any other details that are reasonably likely to enable others to identify the consumer; or
- (4) The Bureau of Elder and Adult Services, the AAA's, service provider or authorized agent has obtained the informed consent of the consumer or his or her legal representative.

**(B) Public Access and Disclosure of Information by the Bureau of Elder and Adult Services.** Copies of all regulations, manuals, guidelines, and standards referred to by these regulations shall be maintained by the Bureau of Elder and Adult Services, the AAA's, service providers and authorized agents and made available for public inspection. The Bureau of Elder and Adult Services shall make available at all reasonable times and places to all interested parties these written policies and rules and all other information in its custody except for:

- (1) Information subject to the confidentiality requirement in 45 CFR Section 1321.51 and Section 40.06(A), above;
- (2) Information subject to confidentiality requirements in other Federal and State statutes and regulations; and
- (3) Information that is exempt from disclosure under the Federal Freedom of Information Act, 5 U.S.C. Section 552, the State Freedom of Access law, 1 M.R.S.A. Section 401 et seq., and under regulations promulgated by the Department of Human Services.

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### 40.06 CONTRIBUTIONS FOR TITLE III SERVICES

Title III funds may not be used in programs that require payment of a fee as a condition of receiving service. Agencies providing services funded by Title III must, however, provide consumers with opportunities to contribute. Consumers who are otherwise eligible for Title III services may not be denied such services because they will not or cannot contribute to the cost. Each service provider must develop written procedures for collecting voluntary contributions. The procedure must protect the privacy of the consumer's contribution. A means test may not be used as a basis for determining suggested contributions for Title III funded services.

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### 40.07 PURCHASING GOODS AND SERVICES IN EXCESS OF \$25,000

- (A) Purchasing Requirements.** Grantees and contractors purchasing goods or services costing in excess of \$25,000 must comply with all appropriate State and Federal requirements including Federal Circulars A-110 and A-122.
- (B) Planning Service Area Coverage Not Required.** No proposal responding to an RFP required under this Section will be refused on the sole grounds that it does not provide for delivery of services to the whole of the PSA.

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### 40.08 Bureau of Elder and Adult Services ACCESS TO RECORDS AND REPORTS

- (A) **Provision of Records Without Cost.** All parties receiving funds from the Bureau of Elder and Adult Services will provide all information and records relevant to determination of compliance with these rules or to monitoring and evaluating programs, facilities and/or services to the Bureau of Elder and Adult Services without cost. A single consumer's record must be provided within two (2) working days. Larger quantities of records must be provided within five (5) working days.
- (B) **Providing Accurate and Timely Reports.** All parties licensed by or receiving funds from the Bureau of Elder and Adult Services are responsible for providing accurate and timely reports in compliance with applicable program policy and contract provisions. Failure to do so may result in termination of the contract, recoupment of some or all of funds contracted or granted by the Bureau of Elder and Adult Services, or delay of award of additional funds until required reports are received.

### 40.09 WAIVER OR MODIFICATION OF THESE RULES

- (A) The Bureau of Elder and Adult Services may waive or modify any provision of these rules not mandated by State or Federal statute, regulation, or local government.
- (B) A waiver may be issued for a specific period of time, not to exceed one year.
- (C) A written waiver must include:
- (1) A statement of the rule for which the waiver is requested;
  - (2) The reason why a waiver of the rule is necessary;
  - (3) A description of the alternative method proposed; and
  - (4) A statement describing how the proposed alternative will comply with the intent of the rule.

**SECTION 69: BUREAU OF ELDER AND ADULT SERVICES ADMINISTERED  
HOMEMAKER SERVICES**

**69.01 DEFINITIONS**

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- (A) **Bureau of Elder and Adult Services Administered Homemaker services**, hereinafter referred to as Bureau of Elder and Adult Services Homemaker, is a state funded program to assist individuals with household or personal care activities that improve or maintain adequate well-being. These services may be provided for reasons of illness, disability, absence of a caregiver, or to prevent adult abuse or neglect. State homemaker funds shall be used to purchase only the covered services that will foster restoration of independence, consistent with the consumer's circumstances and the authorized plan of care. Major service components include homemaker services, chore services, home maintenance services, incidental assistance with personal hygiene and dressing and household management services.

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- (B) **Activities of Daily Living. (ADLs) Activities of daily living (ADLs).** ADLs shall only include the following as defined in Section 69.02 (B) (2): personal hygiene and dressing.

- (C) **Authorized Agent** means an organization authorized by the Department to perform functions under a valid contract or other approved, signed agreement.

- (D) **Authorized plan of Care** means a plan of care which is authorized by the Authorized Agent, or the Department, which shall specify all services to be delivered to a recipient under this Section, including the number of hours for all covered services. The plan of care shall be based upon the recipient's assessment outcome scores, and the timeframes contained therein, recorded in the Department's medical eligibility determination (MED) form. The Authorized Agent has the authority to determine and authorize the plan of care. All authorized covered services provided under this Section must be listed in the care plan summary on the MED form.

- (E) **Care Plan Summary** is the section of the MED form that documents the Authorized Plan of Care and services provided by other public or private program funding sources or support, service category, reason codes, duration, unit code, number of units per month, rate per unit, and total cost per month.

- (F) **Cognitive capacity:** The consumer must have the cognitive capacity, as measured on the MED form, to be able to "self direct" the attendant in the voucher option outline in Section 69.02 (B) (3). This capability will be determined by the Authorized Agent as part of the eligibility determination using the Medical Eligibility Determination (MED) findings. Minimum MED form scores are (a) decision making skills: a score of 0 or 1; (b) making self understood: a score of 0,1, or 2; (c) ability to understand others: a score of 0,1, or 2; (d) managing finances: a score of 0,1,or 2; (e) managing finances self performance: a score of 0,1,2, or 3; and (f) managing finances support, a score of 0,1,2, or 3. An applicant not meeting the specific scores will be presumed incapable of hiring, firing, training, and supervising the voucher plan of care.

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- (G) **Covered Services** are those services for which payment can be made by the Department, under Section 69 of the Bureau of Elder and Adult Services policy manual.
- (H) **Dependent Allowances.** Dependents and dependent allowances are defined and determined in agreement with the method used in the Medicaid program. The allowances are changed periodically and cited in the Maine Medical Eligibility Manual, Chart II, AFDC Related Income Limits. Dependents are defined as individuals who may be claimed for tax purposes under the Internal Revenue Code and may include a minor or dependent child, dependent parents, or dependent siblings of the consumer or consumer's spouse. A spouse may not be included.
- (I) **Disability-related expenses:** Disability-related expenses are out-of-pocket costs incurred by the consumers for their disability, which are not reimbursed by any third-party sources. They include :
- (1) Home access modifications: ramps, tub/shower modifications and accessories, power door openers, show seat/chair, grab bars, door widening, environmental controls;
  - (2) Communication devices: adaptations to computers, speaker telephone, TTY, Personal Emergency Response systems;
  - (3) Wheelchair (manual or power) accessories: lab tray, seats and back supports;
  - (4) Vehicle adaptations: adapted carrier and loading devices, one communication device for emergencies (limited to purchase and installation), adapted equipment for;
  - (5) Hearing Aids, glasses, adapted visual aids;
  - (6) Assistive animals (purchase only);
  - (7) Physician ordered medical services and supplies;
  - (8) Physician ordered prescription and over the counter drugs; and Medical insurance premiums, co-pays and deductibles.
- (J) **Household members:** means the consumer and spouse
- (K) **Household members' income** includes:
- (1) Wages from work, including payroll deductions, excluding state and Federal taxes and employer mandated or court ordered withholdings;
  - (2) Benefits from Social Security, Supplemental Security Insurance, pensions, insurance, independent retirement plans, annuities, and Aid and Attendance;
  - (3) Adjusted gross income from property and/or business, based on the consumer's most recent Federal income tax; and
  - (4) Interest and dividends.
  - (5) Not included are benefits from: the Home Energy Assistance Program, Food Stamps, General Assistance, Property Tax and Rent Refund, emergency assistance programs, or their successors.
- (L) **Instrumental activities of daily living (IADLs)** Instrumental Activities of Daily Living (IADL); For purposes of the eligibility criteria and covered services under this section of policy, IADLS are limited to the following: main meal preparation: preparation or

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receipt of the main meal; routine housework; grocery shopping and storage of purchased groceries; and laundry either within the residence or at an outside laundry facility.

- (M) Limited Assistance** means the individual was highly involved in the activity over the past seven days, or 24 to 48 hours if in a hospital setting, but received and required guided maneuvering of limbs or other non-weight bearing physical assistance three or more times or with weight-bearing support one or two times.
- (N) Liquid asset** is something of value available to the consumer that can be converted to cash in three months or less and includes:
- (1) Bank accounts;
  - (2) Certificates of deposit;
  - (3) Money market and mutual funds;
  - (4) Life insurance policies;
  - (5) Stocks and bonds; and
  - (6) Lump sum payments and inheritances.
  - (7) Funds from a home equity conversion mortgage that are in the consumer's possession whether they are cash or have been converted to another form.
- Funds which are available to the consumer but carry a penalty for early withdrawal will be counted minus the penalty. Exempt from this category are mortuary trusts and lump sum payments received from insurance settlements or annuities or other such assets named specifically to provide income as a replacement for earned income. The income from these payments will be counted as income.
- (O) Medical Eligibility Determination (MED) Form** shall mean the form approved by the Department for medical eligibility determinations and service authorization for the plan of care based upon the assessment outcome scores. The definitions, scoring mechanisms and time-frames relating to this form as defined in Section 69 and provide the basis for services and the care plan authorized by the Authorized Agent. The care plan summary contained in the MED form documents the authorized careplan to be implemented by the homemaker agency. The care plan summary also identifies other services the recipient is receiving, in addition to the authorized services provided under this Section.
- (P) One-person Physical Assist** requires one person over last seven (7) days or 24-48 hours if in a hospital setting, to provide either weight-bearing or non-weight bearing assistance for an individual who cannot perform the activity independently. This does not include cueing.
- (Q) Voucher Option:** Voucher means payments made directly to adults to enable them to purchase covered homemaker services pursuant to Section 69.05

### 69.02 Eligibility

- (A) General and Specific Requirements.** To be eligible for services a consumer must:
- (1) Be at least 18 ;
  - (2) Live in Maine;
  - (3) Lack sufficient personal and/or financial resources for homemaker services;
  - (4) Be ineligible for the Medicaid Private Duty Nursing/Personal Care Services, Medicaid Home and Community Based Waiver, Medicaid Adult Day Health,

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Medicaid Consumer Directed Attendant Services programs. Also not be participating in the Consumer-Directed Home Based Care program enacted by 22 MRSA Section 5107-C or Home Based Care for Elders and Adults with Disabilities by 22 MRSA § 7321;

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- (5) For an individual have assets of no more than \$50,000 or for couples have assets of no more than \$75,000;

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- (6) Not be residing in a hospital or nursing facility; and  
(7) Consumer or legal representative agrees to pay the monthly calculated consumer payment.

**(B) Medical and Functional Eligibility Requirements**

Applicants for services under this section must meet the eligibility requirements as set forth in Section 69.02-B and documented on the Medical Eligibility Determination (MED) form conducted by the Authorized Homemaker Agency. Medical eligibility will be determined using the MED form as defined in Section 69.01(O). A person meets the medical eligibility requirements for Homemaker Services if he or she needs assistance in self performance and physical assist in support with at least three of the following IADLs:

- (1) Instrumental activities of daily living (IADLs)” are regularly necessary home management activities listed below:
- (a) Daily instrumental activities of daily living (within the last 7 days):
    - (i) main meal preparation: preparation or receipt of main meal;
  - (b) Other instrumental activities of daily living (within the last 14 days):
    - (i) routine housework: includes, but is not limited to vacuuming, cleaning of floors, trash removal, cleaning bathrooms and appliances;
    - (ii) grocery shopping: shopping for groceries and storage of purchased food or prepared meals;
    - (iii) laundry: doing laundry in home or out of home at a laundry facility; or
- (2) Need limited assistance in self performance and one person physical assist in support with one Activity of daily Living from the items below;
- (a) Activities of Daily Living:
    - (i) Personal Hygiene: how a person maintains personal hygiene,(excludes baths and showers, includes washing face, hands perineum, combing hair, shaving and brushing teeth, shampoo and nail care
    - (ii) Dressing: How person puts on, fastens, and takes off all items of street clothing, including donning/removing prosthesis

**AND one of the following:**

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- (b) **Instrumental activities of daily living (IADLs)**” are regularly necessary home management activities listed below:
  - (i) Daily instrumental activities of daily living (within the last 7 days):
    - (aa) main meal preparation: preparation or receipt of main meal;
  - (ii) Other instrumental activities of daily living (within the last 14 days):
    - (aa) routine housework: includes, but is not limited to vacuuming, cleaning of floors, trash removal, cleaning bathrooms and appliances;
    - (bb) grocery shopping: shopping for groceries and storage of purchased food or prepared meals;
    - (cc) laundry: doing laundry in home or out of home at a laundry facility; or
- (3) **VOUCHER OPTION.** Consumers or their surrogates may arrange for and manage their own services using a voucher provided by the Authorized Homemaker agency. Except as noted below, all other requirements of Section 69 apply to consumers using the voucher option.
  - (a) **Eligibility.** To be eligible for the voucher option consumers must meet the requirements listed in Section 69.02(A) and (B)-and the requirements either in this Section (a) or (b) below.
    - (i) The consumer must not have a guardian or conservator
    - (ii) The consumer must have the cognitive capacity, measured on the MED form, as defined in Section 69.01 (O ) to be able to self-direct the services. The authorized agent as part of the assessment will determine this capability.
    - (iii) The consumer is willing to meet all program requirements including documentation of services delivered
    - (iv) The consumer agrees to complete a minimum of 2 hours of instruction prior to beginning the voucher option on the rights, risks, and responsibilities of the voucher option.
  - (b) For a consumer who does not qualify under (1) a surrogate may request to act on behalf of the consumer. Consumers with cognitive capacity also may choose to designate a surrogate to act on his/her behalf. The Authorized Homemaker Agent may authorize a surrogate to act on behalf of the consumer if the surrogate:
    - Is at least 18 years old
    - Has the cognitive capacity to arrange for and direct services
    - Is not the consumer’s paid caregiver
    - Shows a strong personal commitment to the consumer
    - Shows knowledge about the consumer’s preferences
    - Agrees to visit the consumer at least every two (2) weeks
    - Is willing to meet all program requirements including documentation of services delivered and every two week visits to the consumer

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Agrees to verify for any certified nursing assistant hired whether there is a notation on the CNA registry of:

- (aa) Any criminal convictions, except for Class D and E convictions over ten (10) years old that did not involve, as a victim of the act, a patient, client, or resident of a health care entity; and
- (bb) Any specified documented findings by the State Survey Agency of abuse, neglect or misappropriation of property of a resident, client or patient

Agrees to complete a minimum of 2 hours of instruction prior to beginning the voucher option on the rights, risks, and responsibilities of the voucher option.

- (c) **Homemaker Coordination.** The homemaker agency will:
  - (i) Provide instruction to consumer or surrogate on the skills needed to hire, train, and schedule, supervise, and document the provision of services identified in the authorized plan of care.
  - (ii) Establish a monthly cost limit based on the authorized plan of care;
  - (iii) Explain the payment method used in the voucher option to the consumer or surrogate
  - (iv) Reimburse the consumer monthly an amount that is not more than the actual cost of services provided, up to the cap established in the authorized plan of care, less any applicable consumer co-payment
  - (v) Provide face-to-face supervision every six months
  - (vi) Provide the consumer with information, about the Long-term Care Ombudsman Program, and Adult Protective Services.
- (d) **Termination.** When there is documentation that a consumer or the consumer's surrogate no longer meets the eligibility requirements for the Voucher Option, the Homemaker Agency will terminate the voucher.

### 69.03 Duration of Services

- (A) Each Bureau of Elder and Adult Services Homemaker recipient may receive as many covered services as are required up to a maximum of \_ten (10)\_ hours per month. Homemaker coverage of services under this Section requires prior authorization from the Department or its Authorized Agent. Beginning and end dates of an individual's eligibility determination period correspond to the beginning and end dates for Bureau of Elder and Adult Services Homemaker coverage of the plan of care authorized.
- (B) Services under this Section may be suspended, reduced, denied or terminated by the Department, or the Authorized Homemaker Agency, as appropriate, for the following reasons:

The consumer does not meet eligibility requirements;



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The consumer declines services;

The consumer is eligible to receive services under another Medicaid or State funded long-term care services program including any Medicaid Home or Community Based waiver program.

Based on the consumer's most recent MED assessment, the plan of care is reduced to match the consumer's needs as identified in the reassessment and subject to the limitations of the program cap;

The health or safety of individuals providing services is endangered

Services have been suspended for more than thirty (30) days

The consumer has failed to make his/her calculated monthly co-payment

When the consumer or designated representative gives fraudulent information to Department or the Authorized Homemaker Agent.

- (C) Suspension. Services may be suspended for up to thirty (30) days while the consumer is hospitalized or using institutional care. If such circumstances extend beyond thirty (30) days, the recipient's participation in the program will be terminated and the recipient will need to be reassessed to determine medical eligibility for these services.

Notice of intent to reduce, deny, or terminate services under this section will be done in accordance with Section 40.01 (A) of this policy manual

### 69.04 Covered Services

Covered services are available for individuals meeting the eligibility requirements set forth in Section 69.02. All covered services require prior authorization by the Department, or its Authorized Homemaking Agent, consistent with these rules, and are subject to the limits in Section 69.03. The Authorized Plan of Care shall be based upon the recipient's assessment outcome scores recorded on the Department's Medical Eligibility Determination (MED) form, its definitions, and the timeframes therein and the task time allowances defined in Section 69.04 (A) (9).

Services provided must be required for meeting the identified needs of the individual, based upon the outcome scores on the MED form, and as authorized in the plan of care. Coverage will be denied if the services provided are not consistent with the consumer's authorized plan of care. The Department may also recoup payment for inappropriate services provision, as determined through post payment review. The Authorized Homemaker Agent has the authority to determine the plan of care, which shall specify all services to be provided, including the number of hours for homemaking covered service.

The Task Time Allowances set forth in 69.04 (A) (9) must be used to determine the time needed to complete authorized ADL and IADL tasks for the plan of care. These allowances reflect the time normally required to accomplish the listed tasks. These allowances will be used when authorizing a consumer's plan of care. If these times are not sufficient when considered in light of a consumer's extraordinary circumstances as identified by the Authorized Homemaker Agent, the Authorized Agent may make an appropriate adjustment. Time authorized must consider the concurrent nature of the homemaking activities.

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### (A) Covered Service Elements

- (1) Routine household care, including sweeping, washing and vacuuming of floors, dusting, cleaning of plumbing fixtures (toilet, tub, sink), appliance care, changing of linens, refuse removal;
- (2) Doing laundry within the residence or outside the home, including washing and drying of clothing and household linens such as sheets, towels, blankets, etc.;
- (3) Meal planning/preparation;
- (4) Shopping, errands, and storage of purchased groceries;
- (5) Chore services including, but not limited to occasional heavy-duty cleaning, raising and lowering of combination screen/storm windows, repairs and similar minor tasks to eliminate safety hazards in the environment, lawn mowing or snow shoveling;
- (6) Incidental personal hygiene, defined as how the person maintains personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, and washing/drying back and feet;
- (7) Incidental help with dressing that includes how the person puts on, fastens, and takes off all items of clothing, including the donning and removal of stockings and/or socks.
- (8) Transportation services necessary to perform covered services described in a beneficiary's plan of care, such as medical appointments.  
Reimbursement shall only be made for mileage in excess of ten (10) miles per single trip on a one way trip. Any individual providing transportation must hold valid State of Maine driver's license for the type of vehicle being operated. All providers of transportation services shall maintain adequate liability insurance coverage for the type of vehicle being operated.
- (9) Task Time Allowances:  
These allowances reflect the time normally required to accomplish the listed tasks. These allowances will be used when authorizing a consumer's care plan. If these times are not sufficient when considered in the light of a consumers extraordinary circumstances as identified by the authorized agent, the authorized agent may make an appropriate adjustment. Task time allowances must consider the possibility for concurrent performance of activities and tasks listed.  
(see below)

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<b>TASK TIME ALLOWANCES - Activities of Daily Living</b>				
<b>Activity</b>	<b>Definitions</b>	<b>Time Estimates</b>		<b>Considerations</b>
Bed Mobility	How person moves to and from lying position, turns side to side and positions body while in bed.	5 – 10 minutes		Positioning supports, cognition, pain, disability level.
Transfer	How person moves between surfaces – to/from: bed, chair, wheelchair, standing position (EXCLUDE to/from bath/toilet).	5 – 10 minutes  <b>up to 15 minutes</b>		Use of slide board, gait belt, swivel aid, supervision needed, positioning after transfer, cognition. <b>Mechanical Lift transfer</b>
Locomotion	How person moves between locations in his/her room and other areas on same floor. If in wheelchair, self-sufficiency once in chair.	5 - 15 minutes (Document time and number of times done during POC)		Disability level, Type of aids used Cognition Pain
Dressing & Undressing	How person puts on, fastens and takes off all items of street clothing, including donning/removing prosthesis.	20 - 45 minutes		Supervision, disability, cognition, pain, type of clothing, type of prosthesis.
Eating	How person eats and drinks (regardless of skill)	5 minutes		Set up, cut food and place utensils.
		30 minutes		Individual is fed.
		30 minutes		Supervision of activity due to swallowing, chewing, cognition issues
Toilet Use	How person uses the toilet room (or commode, bedpan, urinal); transfers on/off toilet, cleanses, changes pad, manages ostomy or catheter and adjusts clothes.	5 -15 minutes/use		Bowel, bladder program Ostomy regimen Catheter regimen Cognition
Personal Hygiene	How person maintains personal hygiene. (EXCLUDE baths and showers)	Washing face, hands, perineum, combing hair, shaving and brushing teeth	20 min/day	Disability level, pain, cognition, adaptive equipment.
		Shampoo (only if done separately)	15 min up to 3 times/ week	
		Nail Care	20 min/week	
Walking	How person walks for exercise only <b><u>How person walks around own room</u></b> How person walks within home How person walks outside	Document time and number of times in POC, and level of assist is needed.		Disability Cognition Pain Mode of ambulation (cane) Prosthesis needed for walking
Bathing	How person takes full-body bath/shower, sponge bath (EXCLUDE washing of back, hair), and transfers in/out of tub/shower	15 - 30 minutes		If shower used and shampoo done then consider as part of activity. Cognition

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<b>TASK TIME ALLOWANCES - IADL = Instrumental Activities of Daily Living</b>			
<b>Activity</b>	<b>Definitions</b>	<b>Time Estimates</b>	<b>Considerations</b>
Light meal, lunch & snacks	Preparation and clean up	5 – 20 minutes	Consumer participation; type of food preparation; number of meals in POC and preparation for more than one meal.
Main Meal Preparation	Preparation and clean up of main meal.	20 - 40 minutes	Is Meals on Wheels being used? Preparation time for more than one meal and consumer participation.
Light Housework/ Routine Housework	Dusting, picking up living space Kitchen housework- put the groceries away, general cleaning Making/changing beds Total floor care all rooms and bathrooms Garbage/trash disposal Non-routine tasks, outside chores, seasonal	30 min – 1.5 hr/week	Size of environment Consumer needs and participation. Others in household
Grocery Shopping	Preparation of list and purchasing of goods.	45 min - 2 hours/week	Other errands included: bills, banking and pharmacy. Distance from home.
Laundry	Sort laundry, wash, dry, fold and put away.	<b>In-home</b> 30 minutes/load 2 loads/week	Other activities which can be done if laundry is done in the house or apartment.
		<b>Out of home</b> 2 hours/week	

**69.05 Non Covered Services**

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The Following services are not reimbursable under this Section:

- (1) Rent
- (2) Services for which the cost exceeds the limits described in Section 69.03;
- (3) Homemaker services (defined in 69.04 (A) delivered in an Adult Family Care Home setting or other licensed Assisted Living Facility which is reimbursed for providing homemaker services. It is the responsibility of the Assisted Living Provider to deliver homemaker services.
- (4) Services provided by an personal care assistant or homemaker for whom there is a notation on the CNA registry of:
  - (a) Any criminal convictions, except for Class D and E convictions over ten (10) years old that did not involve, as a victim of the act, a patient, client, or resident of a health care entity; and
  - (b) Any specified documented findings by the State Survey Agency of abuse, neglect or misappropriation of property of a resident, client or patient
- (5) Those services which can be reasonably obtained by the consumer by going outside his/her place of residence.

**69.06 POLICIES and PROCEDURES****(A) Eligibility Determination**

An eligibility assessment, using the Department's approved MED assessment form, shall be conducted by the Department, the Assessing Services Agency or the Authorized Homemaker Agent. All Homemaker services require eligibility determination and prior authorization by the Authorized Homemaker Agency.

- (1) The Authorized Homemaker Agent will accept verbal or written referral information on each prospective new consumer, to determine appropriateness for an assessment. When funds are available, appropriate consumers will receive a face to face medical eligibility determination assessment, at their current residence, within five (5) days of the date of referral to the Authorized Homemaker Agent, where the consumer is currently residing. All request for assessments shall be documented indicating the date and time the assessment was requested and all required information provided to complete the request.
- (2) The Authorized Homemaker Agent shall inform the consumer of available community resources and authorize a plan of care that reflects the identified needs documented by scores and timeframes on the MED form , giving consideration to the consumer's living arrangement, informal supports, and services provided by other public funding sources. Homemaker services provided to two or more consumers sharing living arrangements shall be authorized by the Authorized Homemaker Agent with consideration to the economies of scale provided by the group living situation according to limits in Section 69.03.

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- (3) The Authorized Homemaker Agent shall authorize a plan of care based upon the scores and findings recorded in the MED assessment. The covered services to be provided in accordance with shall not exceed the monthly financial caps established by Bureau of Elder and Adult Services. The eligibility period for the consumer, shall not exceed six (6) months.
- (4) The Homemaker agent will provide a copy of the authorized plan of care, in a format understandable by the average reader, a copy of the eligibility notice, release of information to the consumer at the completion of the assessment. The Authorized Agent will inform the consumer of the calculated co-payment based on the cost of services authorized.

### **(B) Waiting List**

- (1) When units are not available to serve all prospective consumers, the Authorized Homemaker Agent will establish a waiting list. As units become available, consumers will be assessed on a first come, first served basis.
- (2) For consumers found ineligible for homemaker services the Authorized Homemaker Agent will inform each consumer of alternative services or resources, and offer to refer the person to those other services.
- (3) When units are not available to serve new consumers who have been assessed and determined eligible or to increase services for current consumers, a waiting list will be established by the homemaker Agent. As units become available consumers will be taken off the list and served on a first come, first served basis.
- (4) The Homemaker Agency will maintain one waiting list for the counties they are authorized to serve.
- (5) Suspension. Services may be suspended for up to thirty (30) days while the consumer is hospitalized or using institutional care. If such circumstances extend beyond thirty (30) days, the recipient's participation in the program will be terminated and the recipient will need to be reassessed to determine medical eligibility for these services.

### **(C) Reassessment and Continued Services**

- (1) For all recipients under this section, in order for the reimbursement of services to continue uninterrupted beyond the approved classification period, a reassessment and prior authorization of services is required and must be conducted no later than the reassessment date. Homemaker payment ends with the reassessment date, also known as the end date.
- (2) An individual's specific needs for Homemaker Services are reassessed at least every six months;
- (3) For consumers currently under the appeal process, reassessments will not be conducted.

**69.07 Professional and Other Qualified Staff**

- (A) The Homemaker Agency shall:
- (1) Employ staff qualified by training and/or experience to perform assigned tasks and meet the applicable policy requirements.
  - (2) Comply with requirements of 22 M.R.S.A. §3471 et seq. and 22 M.R.S.A. §4011-4017 to report any suspicion of abuse or neglect.
  - (3) Pursue other sources of reimbursement for services prior to the authorization of Homemaker services.
  - (4) Operate and manage the program in accordance with all requirements established by rule or contract.
  - (5) Have sufficient financial resources, other than State funds, available to cover any Homemaker expenditures that are disallowed as part of the Bureau of Elder and Adult Services utilization review process.
  - (6) Inform in writing any consumer with an unresolved complaint regarding their services about how to contact the Long Term Care Ombudsman.
  - (7) Assure that costs to Homemaker services provided to a consumer in a twelve month period do not exceed the applicable annual number of hours established by the Bureau of Elder and Adult Services.
  - (8) Implement an internal system to assure the quality and appropriateness of assessments to determine eligibility and authorize homemaker services including, but not limited to the following:
    - (a) Consumer satisfaction surveys;
    - (b) Documentation of all complaints, by any party including and resolution action taken;
    - (c) Measures taken by the Authorized Homemaker Agent to improve services as identified in (a) and (b).
  - (9) Contact each consumer quarterly to verify receipt of services, discuss consumer's status, review any unmet needs and provide appropriate follow-up and referral to community resources.
  - (10) Participate in the QARC meetings as required by Bureau of Elder and Adult Services

**69.08 Consumer Records and Program Reports**

- (A) **Content of Consumer Records.** The homemaker agency must establish and maintain a record for each consumer that includes at least:
- (1) The consumer's name, address, mailing address if different, and telephone number;
  - (2) The name, address, and telephone number of someone to contact in an emergency;
  - (3) Complete medical eligibility determination form and financial assessments and reassessments that include the date they were done and the signature of the person who did them;

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- (4) A careplan summary that promotes the consumer's independence matches needs identified by the scores and timeframes on the MED form and on the careplan summary on the MED form, with consideration of other formal and informal services provided and which is reviewed no less frequently than semiannually. The service plan includes:
  - (a) Evidence of the consumer's participation;
  - (b) Who will provide what service, when and how often, the reason for the service and when it will begin and end;
  - (c) The signature of the person who determined eligibility and authorized a plan of care; and
- (5) A dated release of information signed by the consumer that conforms with applicable law, is renewed annually and that:
  - (a) Is in language the consumer can understand;
  - (b) Names the agency or person authorized to disclose information
  - (c) Describes the information that may be disclosed;
  - (d) Names the person or agency to whom information may be disclosed;
  - (e) Describes the purpose for which information may be disclosed; and
  - (f) Shows the date the release will expire.
- (6) Documentation that consumers eligible to apply for a waiver for consumer payments, were notified, may be available;
- (7) Written progress notes that summarize any contacts made with or about the consumer and:
  - (a) The date the contact was made;
  - (b) The name and affiliation of the person(s) contacted or discussed the service plan includes
  - (c) Any changes needed and the reasons for the changes in the plan of care;
  - (d) The results of contacts or meetings and, if applicable, quality assurance review committee (QARC) meetings; and
  - (e) The signature and title of the person making the note and the date the entry was made.

**(B) Program Reports.** The following reports must be submitted to Bureau of Elder and Adult Services, in a format approved by the Bureau of Elder and Adult Services, by the day noted:

- (1) Monthly service and consumer reports including admissions, discharges and active client lists, due no later than twenty days after the end of the month;
- (2) Quarterly fiscal reports, due no later than twenty days after the end of the month;
- (3) Quarterly and annual demographic reports, due no later than twenty five days after the end of the quarter.

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**69.09 RESPONSIBILITIES OF THE BUREAU OF ELDER AND ADULT SERVICES**

(A) **Selection of Authorized Agents.** To select Authorized Agencies, the Bureau of Elder and Adult Services will request proposals by publishing a notice in Maine's major daily newspapers. The notice will summarize the detailed information available in a request for proposals (RFP) packet and will include the name, address, and telephone number of the person from whom a packet and additional information may be obtained. The packet will describe the specifications for the work to be done.

(B) **Other Responsibilities of the Bureau of Elder and Adult Services.** The Bureau of Elder and Adult Services is responsible for:

- (1) Setting the annual individual care plan hour limit.
- (2) Establishing performance standards for contracts with the authorized homemaker agency agencies including but not limited to the numbers of consumers to be served and allowable costs for administration and direct service.
- (3) Conducting or arranging for quality assurance reviews that will include record reviews and home visits with Homemaker consumers.
- (4) Establishing and maintaining regional quality assurance review committees (QARC).
  - (a) The QARC is responsible for:
    - (i) Making recommendations for policy changes to the Authorized Agent and the Bureau of Elder and Adult Services;
    - (ii) Reviewing randomly selected cases and make recommendations for improving quality of care and outcomes for the consumer. The QARC may review additional cases chosen by the staff;
    - (iii) Meeting as often as necessary, but at least four times annually;
    - (iv) Using Procedures that insure consumer confidentiality.
  - (b) The QARC shall have at least six (6) members, and must elect a chairperson who is not an employee of the Assessing Services Agency, Home Care Coordinating Agency or State Agency. Bureau of Elder and Adult Services is responsible for scheduling, notifying and recruiting new members, documenting and distributing the meeting minutes and case review summaries to all members. Membership on the QARC must include:
    - (i) The home care coordinating staff;
    - (ii) The assessing services agency staff;
    - (iii) Service providers;
    - (iv) Consumers or consumer caregivers;
    - (v) Agencies/organizations that have an interest in elderly or other adults; and

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- (vi) Bureau of Elder and Adult Services staff.
- (5) Providing training and technical assistance.
- (6) Providing written notification to the homemaker agencies regarding strengths, problems, violations, deficiencies or disallowed costs in the program and requiring action plans for corrections.
- (7) Assuring the continuation of services if the Bureau of Elder and Adult Services determines that an Authorized Homemaker Agent's contract must be terminated.
- (8) Administering the program directly in the absence of a suitable Authorized Homemaker Agent.
- (9) Conducting a request for proposals for authorized homemaker agents at least every five years thereafter.
- (10) At least annually, review randomly selected requests for waivers of consumer payment.
- (11) Recouping Homemaker funds from the agencies when Bureau of Elder and Adult Services determines that funds have been used in a manner inconsistent with these rules or the Authorized Homemaker Agent's contract.

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### 69.10 Consumer Payment

**(A) Consumer Payment.** Except if they have been granted a waiver, consumers will pay 20% of the cost of services.

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**(B) Waiver of Consumer Payment** Consumers will be informed that they may apply for a waiver of all or part of the assessed payment when:

- (1) Monthly income of household members, as defined in Sections 69.01 (J) and 69.01 (K) is no more than 200% of the federal poverty level; and
- (2) Allowable expenses, as defined in Section 69.01(I), plus the consumer payment would exceed the sum of monthly income. The agency may require the consumer and his/her spouse to produce documentation of income.
- (3) Calculation of the waiver of the consumer payment will be completed by the authorized Homemaker Agent following the process described in Section 63.12

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# **APPENDIX C**

## **Cost Schedules**

**Rider A**

**III. Service Specifications/Performance Guidelines (continued)**

**G. Cost Schedules**

The provider has submitted a budget for the services described herein which is approved by the Agreement Administrator as the budget for services contracted. Said cost schedules and budget are hereby incorporated in this Agreement and made part of it by reference. The Provider agrees to commit the level of agency funds specified in the cost schedules to the provision of services contracted by this Agreement. The Provider agrees to comply with all State and Federal regulations applicable to the conduct of its services, including regulations and agreement administration principles promulgated by the Department. Any material modification to the approved cost schedules or budget that increase or decrease the Agreement amount set forth at Rider B. 1. will not be paid under this Agreement without the prior written consent of the Agreement Administrator and approval of an amendment by the State Purchases Review Committee.

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Agency:  
Agreement Dates:

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**Rider A**

**III. G. Summary Cost Form – Schedule A – Income**

*(If BEAS is funding more than one service or program, list income for each separately.)*

Federal Funding Sources	Prior Budget	Proposed/ Current Budget	Srvc./Prg. Name:	Srvc./Prg. Name:	Srvc./Prg. Name:	Srvc./Prg. Name:
a.						
b.						
c.						
d.						
e.						
f.						
g.						
h.						
i.						
<b>1. Total Federal Funds</b>						
State & Municipal Sources						
a.						
b.						
c.						
d.						
e.						
f.						
g.						
<b>2. Total State/Mun. Funds</b>						
Private Funding Sources						
a.						
b.						
c.						
d.						
<b>3. Total Private Funds</b>						
Program Income						
a.						
b.						
c.						
<b>4. Total Program Income</b>						
In-Kind						
a.						
b.						
c.						
<b>5. Total In-Kind</b>						
<b>TOTAL INCOME (Sum of 1 - 5)</b>						

Agency:  
Agreement Dates:

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**Rider A**

**III. G. Summary Cost Form – Schedule A - Required Matching Funds**

Funding Sources	Local Match				State Match		Total Match	BEAS Agrmt. Amount
	Cash		In-Kind		Source	Amount		
	Source	Amount	Source	Amount	Source	Amount		
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

Agency:  
Agreement Dates:

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**Rider A**

**III. G. Summary Cost Form – Schedule A - Description And Calculation Of In-Kind Resources**

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Amount of in-kind resource provided: \$ \_\_\_\_\_

Describe the in-kind resource(s) and explain how its value was calculated:

If in-kind resource is being used to match other funds, list the name/source and amounts of funds being matched:

Name/source: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

---

Amount of in-kind resource provided: \$ \_\_\_\_\_

Describe the in-kind resource(s) and explain how its value was calculated:

If in-kind resource is being used to match other funds, list the name/source and amounts of funds being matched:

Name/source: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

---

Amount of in-kind resource provided: \$ \_\_\_\_\_

Describe the in-kind resource(s) and explain how its value was calculated:

If in-kind resource is being used to match other funds, list the name/source and amounts of funds being matched:

Name/source: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

---

Amount of in-kind resource provided: \$ \_\_\_\_\_

Describe the in-kind resource(s) and explain how its value was calculated:

If in-kind resource is being used to match other funds, list the name/source and amounts of funds being matched:

Name/source: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

---

Agency:

Page \_\_ of \_\_

Agreement Dates:

**Rider A**

**III. G. Summary Cost Form – Schedule A - Expenses**

*(If BEAS is funding more than one service or program, list expenses for each separately.)*

	Prior Budget	Proposed/ Current Budget	Srvc./Prg. Name:	Srvc./Prg. Name:	Srvc./Prg. Name:	Srvc./Prg. Name:
<b>PERSONNEL COSTS</b>						
1. Salaries and Wages						
2. Fringe Benefits						
3. Consultant Fees						
4. Total Personnel Costs						
<b>EQUIPMENT</b>						
5. Purchase						
6. Rental						
7. Repairs						
8. Depreciation						
9. Total Equipment Costs						
<b>SUB-CONTRACTS</b>						
10. Total Sub-contracts						
<b>ALL OTHER COSTS</b>						
11. Rent						
12. Utilities						
13. Heat						
14. Maintenance						
15. Telephone						
16. Food						
17. Materials & Supplies						
18. Staff Travel						
19. Other Travel						
20. Bonding & Insurance						
21. Other:						
22. Other:						
23. Other:						
24. Total All Other Costs						
25. TOTAL DIRECT COST (SUM OF 4, 9, 10, 24)						
26. ADMIN./INDIRECT ALLOCATION						
27. TOTAL COSTS (Sum of 25 & 26)						

Signature of Official Authorized to Legally Bind the Vendor/Respondent

Date



Agreement Dates:

Page \_\_ of \_\_

### III. G. Schedule B - Personnel Costs

(If BEAS is funding more than one service or program, list personnel by service/program.)

[illegible]

Agency:  
Agreement Dates:

Page \_\_ of \_\_

**Rider A**

**III. G. Schedule C - Equipment Line Item**

Description	Equipment #	Per Unit Cost	No. of Items	Total Cost
<u>PURCHASE</u>				
<u>RENTAL</u>				
<u>REPAIRS</u>				

**DEPRECIATION**

Description	Equipment #	Mo./Yr. Purchase	Useful Life	Cost	No. of Items	Annual Deprec.

**TOTAL EQUIPMENT COST:** \_\_\_\_\_

Agreement Dates:

Page \_\_ of \_\_

### III. G. Schedule C - Summary of Subcontracts

Agency & Address	Service(s)	No. Units	Unit Cost	Total Amount	Subcontract Period	Final Settlement Basis*

*\*Final Settlement Basis: Please specify whether the final settlement will be based on "Unit Cost" or "Cost".*

---

**Rider A**

**III. G. Schedule D - Justification Form - A**

*Note: The budget justification forms provide the detail for the expenses listed on the Rider E, II. Budget – Expenses page, beginning with line #11.*

*(If BEAS is funding more than one service or program, list details for each separately.)*

---

11. Rent: List rent cost by location.

Program	Location	Sq.Ft.	Landlord	Cost
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Costs: \_\_\_\_\_

---

12. Utilities: Describe briefly the utilities included in this budget, what space (location) they serve, and the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

13. Heat: Describe briefly the space (location) served by this item and the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

14. Maintenance: Describe briefly the maintenance items included in this cost, the location served, and the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

Agency:  
Agreement Dates:

Page \_\_ of \_\_

---

**Rider A**

**III. G. Schedule D - Justification Form - B**

*(If BEAS is funding more than one service or program, list details for each separately.)*

---

15. Telephone: Describe briefly the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

16. Food: Describe briefly the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

17. Materials & Supplies: Describe briefly the basis for projecting costs.

Total Costs: \_\_\_\_\_

---

18. Staff Travel: **Identify the projected number miles of travel, rate of reimbursement, and meals and lodging costs if included in this line.**

Total Costs: \_\_\_\_\_

---

Agency:  
Agreement Dates:

Page \_\_ of \_\_

**Rider A**

**III. G. Schedule D - Justification Form - C**

*(If BEAS is funding more than one service or program, list details for each separately.)*

19. Other Travel: **Identify the projected number of miles of travel, rate of reimbursement, and meals and lodging costs if included in this line.**

Total Costs: \_\_\_\_\_

20. Bonding & Insurance: Describe briefly and list the type and extent of coverage.

Total Costs: \_\_\_\_\_

21. Other:

Total Costs: \_\_\_\_\_

22. Other:

Total Costs: \_\_\_\_\_

23. Other:

Total Costs: \_\_\_\_\_

Agency:

Page \_\_ of \_\_

Agreement Dates:

---

**Rider A**

**III. G. Schedule D - Justification Form - D**

*(If BEAS is funding more than one service or program, list details for each separately.)*

---

Lines 24 and 25 are not applicable on this form.

---

26. Admin./Indirect: **(Please explain basis for the amount charged.)** Total Costs: \_\_\_\_\_

---

**Rider A**

**III. G. Schedule E - Maine Accounting and Auditing Procedures (MAAP) Requirements**

**1. MAAP Exceptions**

The following additional provisions or exceptions to OMB circulars are required by the Department of Human Services:

1. **Compensation for Personal Services.** Special incentive payments to employees are allowable to the extent that they have prior written approval of the DHS agreement administrator. Bonus payments and any after the fact payments to share in a program surplus are unallowable.
2. **Interest, Fund-raising, and Investment Management Costs.** Interest on short term cash flow loans are allowable to the extent they are related to the agreement. Short term is defined as one year or less. Proper written approval is necessary in all circumstances.
3. **Travel Costs.** State of Maine Employee Travel Reimbursement Policy shall be followed. Additionally, DHS must give prior approval to out of state travel not originally approved in the DHS agreement.
4. **Bonding and Insurance.**
  - a. **Bonding:** The Provider shall obtain and maintain at all times during the agreement period a Fidelity bond covering the activities of all employees who handle Provider funds in the amount of 20% of their gross annual budget or the total amount of grant, whichever is less.
  - b. **Insurance:** Per the “State is held harmless” clause of the agreement, the Provider shall at all times during the agreement period, insure that there is in force liability insurance in the area covered by the DHS agreement. This insurance shall provide adequate liability coverage to protect both the Provider and the Department from injury or damage suits arising out of the performance of the agreement. Prior to or upon execution of the agreement, the Provider shall furnish the Department with written verification of the existence of such liability insurance coverage. In the event that any action, suit, or proceeding is brought against the Department on any matter herein indemnified against, the Department, as soon as practical, shall cause notice in writing thereof to be given to the Provider by certified mail addressed to the Provider’s address shown herein. The Provider shall also maintain adequate insurance during the grant period to protect capital equipment from fire or thefts.



**Rider A**

**III. G. Schedule E - Maine Accounting and Auditing Procedures (MAAP) Requirements**

**2. Agreement Settlement Form (ASF) - Pro Forma**

*(Use only for contracts settled on allowable cost basis.)*

**Agreement Amount:** \_\_\_\_\_

**Part I**      Agreement Totals

		<u>Revenue</u>	<u>Expense</u>	<u>Balance</u>
1	Per Agreement Budget			
	<u>Agreement Adjustments</u>			
2				
3				
4				
5				
6				
7	Total Adjustments			
8	Totals Available for Cost Sharing			

**Part II**      Agreement Cost Sharing

	<u>Funding Source</u>	<u>Budget</u>	<u>Revenue</u>	<u>Expense</u>	<u>Balance</u>
9	Agreement #				
10	All Other				
11	Totals				

Notes to adjustments:

Line #2

Line #3

Line #4

Line #5

Line #6

**Rider A**

**III. G. Schedule E - Maine Accounting and Auditing Procedures (MAAP) Requirements**

**3. Contract Compliance Rider**

This section identifies compliance requirements that must be considered in audits of agreements between the Department and a Community Agency. Below is a summary of required compliance tests as well as sections within the agreement award relevant to such testing. Failure to comply with any of these areas could lead to material deficiencies.

\_\_\_ Review the Federal compliance requirements specific to the following CDA identifiers:

CFDA # _____	CFDA # _____	CFDA # _____	CFDA # _____
CFDA # _____	CFDA # _____	CFDA # _____	CFDA # _____
CFDA # _____	CFDA # _____	CFDA # _____	CFDA # _____

and review all the State compliance requirements (listed below) that apply to Federal funds.

\_\_\_ Review the State compliance requirements in applicable areas specified below:

**APPLICABLE**

\_\_X\_\_ 1.) INTERNAL CONTROL

\_\_X\_\_ 2.) STANDARD ADMINISTRATIVE PRACTICES

**A. OMB Circular A-110 Common Rule:**

Financial and Program Management  
Property Standards  
Procurement Standards  
Reports and Records  
Termination and Enforcement

**B. Department Additions:**

Standards for Bonding  
Program Income

\_\_X\_\_ 3.) ALLOWABLE COSTS/COST PRINCIPLES

\_\_\_A-122 \_\_\_A-87 \_\_\_A-21

\_\_\_ 4.) BUDGET COMPLIANCE

\_\_\_ 5.) TYPES OF SERVICE ALLOWED OR UNALLOWED  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 6.) ELIGIBILITY  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 7.) MATCHING REQUIREMENTS  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 8.) REPORTING  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 9.) SUBRECIPIENT MONITORING  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 10.) AGREEMENT SETTLEMENT:  
COST BASED TYPE \_\_\_  
UNIT BASED TYPE \_\_\_  
OTHER TYPE \_\_\_  
Specific Detail on Agreement Page(s) \_\_\_\_\_

\_\_\_ 11.) SPECIAL FINANCIAL PROVISIONS  
Specific Detail on Agreement Page(s) \_\_\_\_\_  
A. \_\_\_\_\_  
B. \_\_\_\_\_

**APPENDIX D**  
**Qualification to Bid Form**

## QUALIFICATION TO BID FORM

This form must be submitted with the letter of intent to bid. Agencies that cannot document sufficient organizational and fiscal capacity to meet the requirements and to manage the scope of work outlined in Section II of this RFP will be deemed ineligible to bid. Interested parties only need to send one letter of intent to bid, regardless of how many proposals they may eventually submit. At this point in time, respondents do not need to indicate which service area(s) they will propose to serve.

Applicant: \_\_\_\_\_

List the following if not provided on letterhead:

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Names of Principles: (use additional sheets if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Primary Contact: \_\_\_\_\_

Telephone #: (if different) \_\_\_\_\_

Email: \_\_\_\_\_

Please respond to the following:

- 1) Describe nature of the agency or corporation's business and length of time in business. (No more than one page.)
- 2) Describe the human resource, technology and accounting/fiscal management capacity of the agency or corporation. (No more than two pages, single spaced.)
- 3) Provide a copy of current licenses and accreditations held by the agency/company.
- 4) Does the agency or corporation have either agency cash flow/funds or a line of credit in the amount of \$300,000 to undertake startup, plus funds needed to maintain operation of current business for two months?

# **APPENDIX E**

## **MED Form**